

William Davison.

THE
Original and Right
OF
TITHES,
For the Maintenance of the
MINISTRY
IN A
Christian Church,
TRULY STATED.

To which is Annex'd,
The Draught of a BILL

Prepared to have been Offered to the
Parliament, in the Reign of King
William and Queen *Mary*, A^o 1691.
For the restraining of Pluralities of
Benefices, with Cure of Souls.

With Reasons for the said BILL.

By **HUMPHREY PRIDEAUX,**
D. D. Dean of *Normich.*

LONDON: Printed for *MAURICE ATKINS*, at the
Golden-Ball, in *St. Paul's Church-yard.* 1710.



To the READER.

NOthing hath been of greater Prejudice to many certain and important Truths in the Minds of Men, than the putting of them upon too high Principles thro' the forward Zeal of such, who are more warmly than wisely affected to them. For when it shall appear, that they cannot stand upon such Foundations, this often induceth Men to conclude without considering any further, that there are none at all, on which they can be supported. For when they see the chief Asserters and Champions of those Truths (who have most considered

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them, and may reasonably be thought to be best acquainted with them) to build them on false bottoms, they are apt immediately to infer, that the only reason is, because they have no better, and so rashly reject the whole. And thus it hath hapned in the Case of Tithes. For some Men laying their claim to them on such a Divine Right, as requires a Divine Law to support it, and there being no such Law to be found in Scripture, excepting that, which was given to the Children of *Israel* (which is a part of the *Mosaic* Constitution, and is expir'd with it) this hath led others from the Eviction of this Right to infer the contrary extreme, and that because there is no such Divine Right, there is therefore no right to them at all. And some Books for this
Divine

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Divine Right having with more zeal, than discretion, been lately published on the one side, this hath provoked some to write on the other, and the laying of the claim wrong hath given them too fair an Advantage for the overthrowing of the whole. For as in Processes of Law a righteous and just cause is often lost by being put upon a wrong Issue, so also doth it sometimes happen in Disputes of Divinity, when instead of those good Grounds, on which the Truths, that are asserted, must always immoveably stand, Men chuse to defend them on such as cannot be maintained. For in this Case the Argument must necessarily be lost, and when it is so, very often it happens, that in the opinion of Men the truth also is lost with it. For when they find that Argument baffled

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on which it was unskilfully put, they are apt to think the whole cause baffled with it, and that point no more capable of standing upon any good Ground at all, which they have once seen overthrown from a bad one.

That this may not happen in the case, I have mentioned, is the whole end and aim of my publishing this present Discourse, wherein I have endeavoured to show the true right, on which Tithes are paid to the Ministers of the Gospel in this Land, as well as the Original of them in the Christian Church.

That they are due, as to the *quæta pars*, by a Divine Law obligatory upon all Mankind, how much soever it hath been laboured, hath never yet been proved. And for the Clergy to claim them by such a wrong right, as can never be made out,
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it doth not only weaken the true right, which they have unto them, but also exposeth them to scorn and contempt, as baffled claims always do those that make them, and by reason of the many odious Consequences, which follow hereupon, must necessarily stir up the hatred and aversion of the Laiety against them.

For if the Tenth part of every Man's Annual encrease be through the whole World reserved to the Ministers of the Gospel by a Divine Right in the same manner, as they were in the Land of *Israel* to the Ministers of the Tabernacle, it will then follow, that all Compositions for Tithes, all Settlements instead of them, all *modi decimandi*, all Exemptions from Tithes, all Impropriations, and all other usages and establishments in

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this Land concerning them, whereby Tithes are alienated from the Clergy, or else are paid to them any other way, than by an exact Tithe in kind, are breaches of a Divine Law, which doth not only charge the Government of the Land, which permits all these particulars, and hath settled them by Laws, but also the whole body of the People, who are any way concerned in them, with a constant practice of Impiety and Sacrilege.

Were the Doctrine true, from whence these Consequences follow, I confess it would not be hurt or prejudiced by them, but in this case the truth must reform the practices, which are contrary to it, and not the practices overthrow the Truth. But when the Doctrine cannot be proved to be true, to assert it with all these consequences at its

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its back, which accuse the Government, and the whole body of the people, as guilty of a constant breach of a Divine Law, and also of the horrid Sin of Sacrilege involved therein, can serve to nothing else, but to set the whole body of the Laity against the Clergy, and thereby weaken the authority, and lessen the Success of that Ministry, on which they are sent unto them.

But if waving this right to the *quota pars*, they claim it only as to the Maintenance, I hope, I have in the ensuing Discourse made it sufficiently appear, that their Title to their Tithes on this Foundation will ever firmly stand against all assaults, as long as the Worship of God it self shall, and that nothing, but such a general and thorough defection from all Religion, as shall wholly extinguish the per-

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performance of this Duty unto him, will ever be able to overthrow that Maintenance of the Ministry, which is necessarily ordained for the carrying on thereof.

For if God be to be Worshiped, there must be Ministers to officiate in this Duty, and there must be a Maintenance to support them in it, both these later being necessary means in order to the former. And therefore every Law of God, which Commands his Worship, whether it be dictated to us by Nature, or enjoined us by his Written Word, must also Command a Maintenance for those who Minister in it. For in all Duties the injunction of the end must necessarily include in it the injunction of the means, which are necessary to it, and whosoever Commands the one, must

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must by necessary implication Command the other also, or else that end can never be attained. And therefore the Maintenance of Ministers for the Worship of God being a necessary means for the performance of this Duty, as long as this Worship of God is allowed to be commanded of God, and therefore of Divine Right, it must follow from hence (waveing all other Arguments from the express Precepts, which are in the Gospel for it) that a sufficient Maintenance for those, who Minister in it, must be of Divine Right also. And thus much, I am sure, no one, that will be guided either by Scripture or Reason, can ever deny.

That there is the same Divine Right to the Tenth part of every Mans Annual encrease to make up this Maintenance,

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nance, is what I cannot say. For I cannot find any Law in the Word of God obligatory upon all Mankind for it, which is either by exprefs Command, or necessary implication contained in it. That God, when he was pleased to take upon him to be the National Governour of the State of *Israel*, did establish the payment of Tithes for this purpose among that People, is clear from the *Levitical* Law, and the Scriptures, as well as ancient Traditions, make it appear that they were in use for this end among the Patriarchs long before, and exprefs mention is made of them as to *Abraham* and *Jacob*, who being under the special conduct of Divine Inspiration, no doubt were guided by it in this matter. And how far this ought to weigh with us by way of Precedent

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cedent to do the same, I hope I have fully shown, and given all the force to that Argument, which it justly bears.

Perchance by Publishing this Treatise I shall run the same fate, which usually happens to such, as take the middle way, that is please neither of those, who are on the contrary extremes. As there are some among the Clergy, whom nothing will satisfy but a Divine right for the exact Tithe, so there are many more among the Laity, besides the *Quakers*, who are as violently set against their having any Right to them at all, and would gladly have their Ministers no otherwise live, than as the Beggars do at their Doors, upon what by way of Alms and voluntary contribution they shall be pleased to bestow upon them. But my aim being only
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to assert the Truth, and put the Right, which the Clergy have to their Maintenance, upon those Foundations, on which it can be defended, I am not at all concerned, whom I shall please or whom I shall displease in the attempt, neither will I draw the saw of contention with any one in answering any of the Cavils or Objections, which on either side shall be made against what I have now Written. If that which I have asserted be the Truth, it will defend itself, if not I shall be best pleased to see it confuted. For it is not my desire, that any error should stand, because it is mine. My whole design in this matter is the Honour and Glory of God, in the support of his Worship, and that Maintenance for his Ministers, which is necessary in order hereto. And there;

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therefore my desire is, that nothing, which I here offer, may be any further regarded, than as it doth Maintain and Support those Truths, which are conducive to this great end. But whatsoever other Mens Opinions may be concerning this Argument, as I have Written nothing hereon, but with a thorough perswasion, that it is the Right, so I hope, that when it shall be thoroughly scann'd and considered, it will fully appear, that I am not mistaken herein.

NORWICH,
Septemb. 25. 1709.

Humphrey Prideaux.

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THE
Original and Right
OF
TITHES
FOR THE
Maintenance of the Ministry
IN A
CHRISTIAN CHURCH.

CHAP. I.

Of the Original of Tithes.

A Seventh part of our time
having from the begin-
ning of the World been
(a) Consecrated by God himself (a) Gen.
to his Publick Worship, from ^{2. v. 3.}
that time there was a necessity of
Consecrating also a part of our
substance for the support there-
of. For the Duty not being to
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be carried on without a Portion set apart for the Maintaining of Persons in the Publick Ministration of it, and furnishing all things else requisite to the performance, that very Law, which obligeth to the one, must necessarily also oblige to the other, as the means in order thereto. And therefore in the first act of Publick Worship, which is recorded in Holy Writ, we find *Cain* and *Abel* bringing a Portion of what each had gain'd in their particular Occupations, the one of the encrease of his Flock, and the other of the product of his Tillage, to be an Offering unto God for this purpose. And indeed without any positive institution at all, our Creation alone would give unto God our Creator a most clear and undeniable right to our Worship, and that must oblige us to all things else necessary thereto. And therefore even by the Law of Nature, not only the Worship of our God, but the furnishing of a Maintenance for the support thereof, as well as the separating of a set part of our time for the performance of it, are Duties equally

equally necessary from us. Only there's this difference, that, when God gave us our time, he limited the General Duty of his Publick Worship to the Seventh part thereof; but when he gave us our substance, he did no such thing as to that Portion of it, which is necessary for the support of his Worship; but invested Man *(a)* in a full property of all things, which he had Created on the Earth without any exception or reserve at all, and that not only at the first Creation of the World, but also *(b)* at his sending forth of *Noah* and his Sons again to re-people it after the Flood, and therefore, as to this particular, he left them under no other obligation, but that of the general Duty to separate and set apart out of the substance, which he had given them, that which may be sufficient to support and maintain the Worship, which he requires from us.

(a) Gen. 1. v. 28. and 29.

(b) Gen. 9. v. 2. and 3.

And why God should by a Divine Command determine the one to a certain part, and not the other, there seems to be this reason for it. Our time is uniformly the same

without variety or difference all the World over, and therefore may very well admit one uniform Law concerning it; But as to our substance, it is quite otherwise. For that consists of many sorts, and these are under many various and different circumstances, according to the different Countries and Places, of which they are the product, the different Laws and Constitutions, under which they are held, and the various and different Manners, Customs, and ways of living of those that possess them, and are all liable to a multitude of Changes, Revolutions, and other Accidents, all which cause such a vast variety in proportioning the part to be separated to the end, it is intended for, *i. e.* the support of God's Worship among us, as makes this matter wholly incapable of one universal Law for the exact fixing of it, but it will frequently happen, that what will be sufficient in one place, will be insufficient in another, and scarce in any two places will the same Portion set apart for this purpose equally answer in the same just
pro-

proportion the end design'd thereby. And therefore God of his infinite Wisdom and Goodness thought fit to charge Mankind as to this with no more, than the General Duty, *i. e.* that his Worship be provided for with such a part of our substance, as may be sufficient to support it, leaving it to Man himself to proportion the means to the end, as may best answer it in a Correspondency with the Circumstances, he is under.

And therefore, it being the Law of God from the beginning dictated unto us by the light of our Nature, as well as by his positive Command prescribing his Worship, that this his Worship be supported, it hath ever since become Mans Duty to Consecrate such a part of his Substance thereto, as should be sufficient for the Maintenance of Ministers to attend it, and the furnishing of all things else for the performing and carrying on thereof. And it ought constantly to be our care, that there be no failure in the one through any want or defect in the other. And that part of our Substance,

stance, which will best answer this end, is that, which by the Law of God and Nature is due from us in order thereto, and a *Jus Divinum* here I think no one can deny.

But to determine what part this is, here is the difficulty ; for it lyes in an exact proportioning of the means to the end ; but there being such a vast variety in Places, Persons, and Things, to which respect is to be had in the doing hereof, as hath been already said, and that making the state of the matter as much to vary also, there can be no ascertaining of any one part, which can every where exactly answer the thing intended, but every different Place, according to its different Circumstances, will make this proportion to differ also, and give Reasons for the separating of a different part for the support of Gods Worship in it. For in large Towns, where there are many Souls to be taken care of, but little or no Territory yielding *Tithes*, there this provision of a Tenth part will not do ; and in other Places, where there is a large Territory, and few
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or no Souls, as is the Case of several Parishes in this Realm, (for some there are, which have neither House nor Inhabitant remaining in them, and others not above one or two.) there it will over-do. And therefore as there is no Law of God to determine all Mankind to any one certain part for this end, so neither is there any thing in the Nature of the thing, or the Reason of man, that can lead us there-to.

But it not being possible, that any order can be observed in any State or Community of Men, in which God is worshiped, unless this matter be brought to a certainty, this induceth a necessity of coming to a positive institution for the fixing of it to a certain part, which may at least provide a sufficiency for the whole, though it cannot exactly hit it for every place in the distribution. And I doubt not, from the beginning such a certain part was by the first Parents of Mankind Consecrated to this purpose, and what follows from the History of *Cain* and *Abel*, which I have al-

(c) The
Septuagint
Version
Gen. 4. v.
7. hath it,
ὡς ἐὰν ὁρ-
θῶς προσε-
ύχῃς
ὁ θῶς δὲ
μὴ δὲ λησ
ἵμας;
i. e. dost
thou not, if
thou offer-
est right,
and divi-
dest not
right, Sin
against me?
i. e. If thou
dividest
not to me
out of the
whole, as
much as
thou
shouldest.

ready hinted at, seems plainly to give us some proof, that it was so. For how else can it be well accounted for, why the Offering of *Cain* should be rejected, and that of *Abel* accepted, but that the one did agree, and the other disagree (c) with some stated Rule concerning this matter? that is, that *Abel* brought unto the service of God as much of his encrease, but *Cain* out of Covetousness and Infidelity not as much, as had afore (either by *Adam* when sole proprietor of the World, or by common consent afterwards) been Consecrated thereto. Of any such Institution, I confess, there is no direct mention in Scripture, but it doth sufficiently appear in the Practice of Holy Men afterwards, that they had a Com-

And hence the Apostle saith of *Abel*. Heb. 11. v. 4. That he offer'd *παριονα θυσιαν* a larger Sacrifice than *Cain*, and therefore *Cain's Sin* was, that he offer'd less than he ought. Grotius on this Version of the Septuagint hath this remark. Sensisse videntur illi obviata quidem a Caino, quæ fas erat offerri, sed non sui generis optima, aut certe minus decima, quæ ab antiquissimis seculis Dei portio. i. e. The Septuagint Translators seem to be of Opinion, that, what was offered by *Cain*, was fit to be offered, but was not the best of its kind, or was truly less than a Tenth, which from the most ancient times was Gods Portion.

mon Rule, which they went by in this matter, and that the Tenth part was that, which every Man did separate out of what he had in every Years Encrease for the support of Gods Worship among them. For *Abraham*, when met by *Melchisedeck* the Priest of the most High God, on his return from his Victory over the four Kings, (d) paid him Tithe of all that he had, which being done on a Journey, and in a transient interview, when there was no time or opportunity for that Counsel and Consideration, which is requisite for the making of a new Institution, it seems clearly to have been practised by him according to the long received usage of his Forefathers, and the Stile and Phrase of the Text plainly speaks of it as such. And *Jacob* immediately after his Vow of having the Lord *Jehovah* for his God subjoyning also the Vow of paying him the (e) Tithe of all that he should give him, i. e. of all his encrease, this appears to be a very convincing argument, especially if joyned with the instance last mentioned, that

(d) Gen. 14. v. 20.
Heb. 7. v. 2. 4.

(e) Gen. 28. v. 22.

the Worship of God, and the payment of Tithes for the support of that Worship, were Things, which in those days did go together And if we consider of how general a practice the payment of Tithes anciently was amongst most Nations of the Earth for the support of the Worship of those Gods, they adored, and the many instances we have of this usage (f) among the *Syrians, Phœnicians, Arabians, Ethiopians, Greeks, Romans* and other Nations, there is no other rational account to be given, how so many different People of various Languages, and various Customs from each other, and who also worshiped various Deities, should all come to agree so exactly in this one matter, but that it had been an ancient Institution sacredly observed by the first Fathers of Mankind, and after the Flood transmitted by them in a lasting Tradition to the Nations descended from them. And if so (and what hath been said, I think, strongly proves, that it was so) then we have not only the practice of *Abraham* and *Jacob* for the separating of a Tenth

(f) Concerning this see Selden of Tithes, Cap. 3. Spencer de Legibus Hebræorum. Lib. 3. c. 10, Sect. 1.

Tenth part of their Encrease for the support of Gods Worship, but also that of the ancient Patriarchs, who went before them. And this I think fully proves it of Divine Original, although there be no Divine Law obliging all Mankind thereto. For those Holy Men having, as yet, no other standing Law given unto them, but that Law of Nature, which God at first wrote in the Heart of Man at his Creation, were under the Conduct of special Divine direction for whatever they did in the Duties of Religion beyond this. And there being nothing in the Nature of the Thing, nothing in the Reason of Man (as hath been already said) to determine them to a Tenth part, rather than to a Ninth, or an Eleventh, or any other part, and therefore nothing in the Law of Nature to oblige them to the payment of it, from whence else could it come, but from a like Divine direction, that they first fixed on this Rule, and afterwards so sacredly observed it, and so carefully trans-

transmitted it to the Nations descended from them?

(g) Numb.
18. v. 21.

And further reason will appear for this, if we consider, that as soon as God gave a Written Law unto his People, he made this very Tenth part (g) the Portion, which he himself in that Law Consecrated to this purpose. For it is much more reasonable to believe, as much more agreeing with the Honour and Majesty of God, that he should write after a Copy of his own in this matter, rather than follow an Example, which had Man only for the Author of it. Neither is it likely, that Man (whether it were *Adam* himself, or whoever else of the ancient Patriarchs, that first separated a Tenth) should so exactly hit on that part, which God should afterwards in such a manner approve of, as to establish it by a Written Law of his own unto his People, unless it were, that by God himself he were first directed thereto.

For when God incorporated his People into a civil state, then he established this matter by a standing

ing Law among them, and having consecrated the Tribe *(b)* of *Levi* *(b)*Numb. 3. v. 40. 41. &c. instead of the First Born to the Service of his Altar commanded, that the *(i)* Tithe of every Mans increase should be given them for *(i)*Numb. 18. v. 21. their Maintenance, and support therein. And that we may the better understand the extent of this Law, and the Foundation, on which it stands, I shall remark concerning it these following particulars.

1. The Government of the People of *Israel*, when God gave them the Law by the hand of *Moses*, was a Theocracy, *(k)* wherein God was their immediate Governor, *(k)*Judges 8. v. 23. 1 Sam. 8. v. 7. &c. C. 10. v. 19. and as such, the immediate Founder not only of their Ecclesiastical, but also of their Civil State, and therefore prescribed unto them not only those Laws, whereby the Duties of their Religion were to be perform'd, but all those also, whereby the Civil Rights of that People in all their particular properties were to be Regulated and Govern'd, and hence it is, that the Law of *Moses* is usually distributed into these three parts, 1. The Moral ; 2. The Cere-

Ceremonial, and 3. The Judicial or Political.

2. The Law of Tithes given by *Moses* falls under the third Branch of this Division, and belongs rather to the Political or Civil part of that Constitution, than to the Ecclesiastical. That there should be a competent Portion set apart out of every Mans Substance for the support of God's Worship is, I acknowledge, as ancient, as the Worship of God himself. For the one being a necessary means to the other, the same Law of God and Nature, which obligeth to the one, must (as hath been already said) necessary also oblige to the other; but the determination of this Obligation to a Tenth part, and the assigning of that by way of property to those, who officiate about this Worship, and are the Publick Ministers in the performance of it, must be ranked only under that part of the Government, to which the distribution of property doth belong, which in the nature of the Thing, as well as in the practice of all Ages, must undeniably be allowed to be in the Civil State.

3. At

3. At the time, when God gave this Law, the Inhabitants of the Land of *Canaan* having by their Iniquities made a forfeiture of that Land, and God having for the guilt thereof condemned them to utter Extirpation, and after by the Armies of *Israel* taken this Forfeiture, and Executed this Sentence upon them, the whole property of this Land became thereby vested immediately in God himself, not only as Supreme Governor of the World, but as he was in a peculiar manner the immediate (l) Captain and Governor of this People.

(l) *Joshua*
C. 5. v.
14. 15.

4. God having given this Land thus Forfeited to him, to the Children of *Israel*, and as their immediate Law-giver and Governor ordered the distribution of it among their Tribes, to every Man his Lot and Property in it, and Established the Law, by which they were to hold it, he Consecrated the Tenth part of its income or annual increase to himself, for the support of his Worship among them, and therefore (m) the property of this Tenth part by virtue of this Consecra-

(m) *Num.*
18. v. 21.

cration of it being immediately in God himself, it is called in Scripture, Gods Inheritance, *Deut. c. 18. v. 1.* For there it is said of the Tribe of *Levi*, That *they should have no part nor Inheritance with Israel, but that they should eat the Offerings of the Lord made by Fire, and his Inheritance*, where are two particulars to be observed, 1. That in the general Words, *his Inheritance*, are included Tithes, as well as what else was Consecrated to God for the support of his Worship; 2. That they are called Gods Inheritance in the possession of the Tribe of *Levi* in the same manner, as what was divided to the other Tribes is called their Inheritance. And in another place they are said to be *an heave Offering offered by the Children of Israel unto the Lord, and given by him to the Levites to inherit.* *Numb. c. 18. v. 24.* And for this reason, when God charged the *Jews* by the Prophet *Malachi* with the Sin of Subtracting these Tithes, he tells them, that they robbed him; For saith he, *C. 3. v. 8. 9. Will a Man rob God? Yet ye have robbed me. But*

ye say wherein have we robbed thee? In Tithes and Offerings. Ye are accursed with a Curse, for ye have robbed me, even this whole Nation. Which sheweth, that the Ministers Maintenance is Gods property, and that we rob him, whenever we detract from them any part of that Maintenance, which is appointed to support them in his Service.

5. God having consecrated the Tribe of *Levi* to his Service, to be the Ministers of his publick Worship in *Israel*, he gave them these Tithes to receive and enjoy them in a usufructuary tenure under him, as their Wages from him, whereby they were to be maintained and Supported in this Service, and in consideration hereof they were excluded all other Possessions in the first division of the Land, excepting the Cities, which were appointed for them to dwell in. For it is said of them, that *they* ^{(n) Num. 1. 18 v. 20. 21.} were to have no Inheritance among their Brethren, because ^{(n) God was} ^{Deut. 10. v. 9. and C. 18. v. 2.} the Tithes and Offerings Consecrated to God ^{Joshua: 3. v. 14. 32. Ezek. 44. v. 28.} of which they were to Eat, and be

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Maintained, as at his Table, they and their Families for the Service, which they were to do him.

6. That Service, which the Tribe of *Levi* was Consecrated to, (o) Num. 18. v. 21. was only that (o) of the Tabernacle, which afterwards was translated to the Temple, when built in the place, which God did chuse, and consisted only in Sacrifices, and other ritual observations of the *Mosaic* Institution.

From which particulars thus laid together these two inferences do plainly follow.

1. That the Law of Tithes enjoined the Children of *Israel* was, as to the determinate part, a Law peculiar to that People, as being given to them by God, not as General Governor of the World with an intent of obliging all Mankind to the observance of it, but as he was in a peculiar and extraordinary manner their immediate King and National Governor in that state of Theocracy, they were under, and therefore it was no more in the Commonwealth of *Israel*, than as a part of that civil Constitution, by which

which they were governed, which no otherwise differed in its Nature and obligation from the civil Constitutions of other States, but as it happen'd, they had God himself through the extraordinary Mercy and favour, they obtained from him, to be the immediate Founder, and Former of it.

2. That this Law being under these several restrictions, 1. That the Tithes establish'd by it were to be paid only of the Land of *Canaan*, given to the Children of *Israel* at their coming out of *Aegypt*; and 2. To the Tribe of *Levi* only, and 3. For the Service of the Tabernacle after translated to the Temple, and none other; on the failure of either of these particulars the Law it self must fail also. Had the Children of *Israel* continued in the Land, which God at first gave them, each in their particular possessions, after the promulgation of the Gospel, which abolished the *Levitical* Priesthood, as well as the Service, to which it was ordained, there might be room for some dispute, whether the Charge of Tithes

did not still remain upon those Lands in the same manner, as when first laid on them, for the Maintenance of the Priesthood, which was afterwards appointed instead of the *Levitical* ; and it must be confessed, that according to Equity, and the reason of the thing, it ought to be so, but by the letter of the Law, they could not be obliged to it. For the same Law, which appointed the payment of Tithes out of those Lands, appointed them to be paid to none other, but the Tribe of *Levi*, and for no other Service, but that of the Tabernacle only, and therefore when this Service was abolished, and this Priesthood ceased, the Law, as to this particular of a Tenth part, must cease also, although not as to the general obligation of supporting Gods Worship, and those that attend it, with a sufficient Maintenance, which was from the beginning. But seeing the Political State of that People was dissolved, as well as the Ecclesiastical, and not only the Priesthood of *Levi*, and the Service, for which it was ordained, be-

became abolished on the promulgation of the Gospel, but also within a little while after the whole Nation was expelled the Land, out of which they were to pay those Tithes, and have so continued ever since, there can be no doubt remaining, but this Law of Tithes became herewith most certainly dissolved also, and I know no foundation, on which to build any reason to the contrary. For that which is said by (p) a late Worthy and Learned person, that it could not cease without a particular revocation under the Gospel, I think can be of no force. For since the Gospel did put an end to the whole of the *Mosaical* Constitution, which was purely such, why should there be a necessity of a particular repeal for any one part, since most certainly every part is included in the whole, and why for this part more than any other, since it is as certain every part of that Law is now out of doors, although every part had not its particular repeal. To this it is reply'd, the Law of the Sabbath not being

(p) Dr
Comber.
of Tithes,
Part 1. c.
4. P. 46.

repealed in the Gospel is still observed, and reckoned of divine obligation without any new Command for it, and why then should it not be the same with the Law of Tithes also! To this I answer, the Case is quite different, the Law of the Sabbath was (q) enacted from the beginning, when God Consecrated the seventh day to himself, and from that time became of divine obligation upon all Mankind, and therefore the Children of *Israel* observed this day before (r) the Law was given in *Sinai*, which could then be by no other Law, but that which was ordained concerning it from the beginning. And when God promulgated this Law from Mount *Sinai* to the Children of *Israel* in the 4th Commandment, it was no more than a revival or a renewal of the Law formerly given by him at the Creation to all Mankind concerning this matter, and a particular applying of it to that people for their observance of it, and therefore it begins with these words, *Remember the Sabbath day to keep it holy*, which plainly points to something

(q) Gen.
2. v. 3.

(r) Exod.
16. v. 25.

thing before Commanded, and now to be brought a fresh to their remembrance, and that very Commandment refers us back to the Creation for its first original. For therein it is said, that *in six days the Lord made Heaven, and Earth, the Sea, and all that in them is, and rested the seventh day, and that therefore God blessed the seventh day, and hallowed it,* that is, then made it holy, or Consecrated it for a day of publick Worship unto him the Creator and Maker of all things, to be kept and observed by all Mankind, and therefore when the Law of *Moses* ceased, this still stood upon the foot of its first institution, and had the Law of Tithes the like Original, it must in like manner have stood also, and been still in force of divine right upon all Mankind. But there being no such Law to be found upon the Record of Sacred Writ, or any Command at all concerning it there made mention of, but what was given to the Children of *Israel* in the *Mosaical* Constitution, as this Law had its beginning only with

that Constitution, so also must it have its ending with it.

For the Gospel, which did put an end to the *Mosaical* Constitution, makes no reserve as to this Law of Tithing, or hath any thing in it to enforce its obligation upon us. For the Law of Christ was not made for one Nation, or calculated for one people only, as was that of *Moses*, but for all Mankind. And therefore for the same reason, why God did not at the Creation, when he Consecrated the seventh part of our time to his his publick Worship, Consecrate a particular part of our Substance for the support of it ; I say for the same reason our Saviour did not do it at the giving of the Gospel, but left us under the general obligation only of doing that, which shall be sufficient for this purpose, and in the same manner, as from the beginning, committed it to Man so to ordain, and appoint the particular portion, as in the different circumstances of places, persons, and things, it may best answer the end design'd. And therefore he no where gives
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any Law about Tithes, either by himself, or his Holy Apostles (that which he saith (f) of the *Pharisees* (f) Mat. Tithing, *mint, anise, & Cummin*, ^{23. v. 23.} and that they ought to do so, plain- ^{Luke 11. v. 42.} ly referring to those Men, while yet under the obligation of the *Mosaical* Law.) And consequently it must follow, that the Ministers of the Gospel cannot claim Tithes for their Maintenance by the same divine right, as to the determinate part, as the *Levitical* Priesthood did, because there is no such Command for the payment of them in the Gospel of Jesus Christ, as there was in the Law of *Moses*.

But as to the general duty of providing a sufficient Maintenance for those, who attend the Ministry of the Gospel, there is scarce any thing in the Law of Christ contained in the New Testament, that is more fully and strictly enjoyn'd, or with more pressing force of Argument urged upon us. When Christ first sent forth his Apostles on this Ministry, he commanded them to take (t) *no money* (t) Math. *in their purses, nor scrip*, i. e. no provision for the way, *not two Coats* ^{10. v. 9.} ^{Mark 6. v. 8.} ^{Luke 9. v. 3.} *nor*

nor Shoes, i. e. nor change of Raiment or of Shoes with them in this mission, because (u) the Labourers being worthy of their hire, they were to be provided with all these things, and with whatsoever else they should want, by those to whom they were sent. And when he sent forth the seventy Disciples on the same mission, (w) he gave them also the same command adding the same reason for it, (x) that the Labourer was worthy of his hire. And to both these Commands of our Saviour the holy Apostle St Paul referring in his first Epistle to the Corinthians c. 9. v. 14. there tells us, *That as those, who ministered about holy things in the Temple, lived of the things of the Temple, and those who waited at the Altar, were made partakers of the Altar, so the Lord hath ordained, that these, who preach the Gospel, should live of the Gospel.* I confess, I cannot see in these words a divine command for Tithes, as many think they do. For here is no mention made of Tithes at all, but only of the general duty of providing a Maintenance for those, who officiate in

(u) Math.
10. v. 10.
Luke 10.
v. 7.

(w) Luke
10. v. 1, 2,
3, &c.
(x) Luke
10. v. 7.

in holy Things under the Gospel, as well as formerly under the Law, without descending at all to any specific manner, or determinate part, whereby it was formerly done under the Law, or is now to be done under the Gospel. Had the determinate manner of doing it under the Law by Tithes been particularly specified, and mentioned in the former part of this comparison, then indeed it must have been inferred in the latter, and this would have made Tithes as undoubtedly to have been of divine right under the Gospel, as formerly they were under the Law. But nothing of this being mentioned in the Antecedent, there is no Logic, that can make any such inference from it in the Consequent. But although the divine right of Tithes cannot be proved from hence, yet the divine right of a sufficient Maintenance for those, who preach the Gospel, most certainly must, and such a Maintenance, as may as plentifully Maintain them, as ever the Temple and the Altar at *Jerusalem* did those, that Ministred in the things belonging

longing to them; and so far the general Comparison of the Text will certainly reach, although not to the specific or determinate part, because there is no mention of any such part made therein. And it is here to be taken notice of, that the holy Apostle doth not lay down this by his own authority only, but refers us to the institution of Christ our Lord, telling us, that he himself, while on Earth, *so ordained it*, i. e. by making it a standing Law at his first sending forth of his Apostles, and Disciples, on their mission, that all such, as are thus sent by his Authority to labour in the preaching of the Gospel, should be supply'd by those, to whom they are sent, with all things necessary to Support and Maintain them in the discharge of the Ministry committed to them. That this was our Saviours command as to the Twelve Apostles and Seventy Disciples on his sending them first out to preach the Gospel, is plain from what hath been already said, and that this was not peculiar to them only, but general to all in the like mission.

mission with them, is clear from this, that the Apostle here applies it to all, that preach the Gospel. And the faithful observance of this Command the holy Apostle very earnestly presseth upon us by several arguments in that Chapter, 1. From the parallel case of all other Labourers, [v. 7.] and he particularly instanceth in three; the Soldier hath his pay to bear the charges of his Warfare, the Vinedresser the Fruit of his Vintage to reward his Labour, and the Shepherd the Milk of his Flock to Support and Maintain him, and shall not then the Ministers of the Gospel likewise have from their Labour wherewith to be Supported and Maintained therein? 2. From the *Mosaical* Law, which forbiddeth to *Muffle the Mouth of the Ox, that treadeth out the Corn*, [v. 9.] which was not given for the sake of the Ox, but for the sake of Man, to instruct him by the Moral of it, that none, that labour in any work, ought to be debarred their sustenance from it, and therefore not the Ministers of the Gospel, who labour in the
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Preaching of it. And this Argument the holy Apostle makes use of to the same purpose in another place, [*1 Tim. c. 5. v. 17.*] and from thence argues, that *those Elders, that rule well, especially they who labour in the Word and Doctrine, be counted worthy of double Honour. i. e. of a double Portion for their reward.* 3^{dly}, From the excellency of the work, which the Ministers of the Gospel are imployed about, and the benefit, which Men receive from it. For they are sent of Christ to administer unto Men *Spiritual things*, the means whereby to save their Souls, and lead them to the attainment of Everlasting Life in the Kingdom of Heaven, and when they dispence unto Men such great and valuable benefits in Heavenly blessings, which last for ever, can it be reckoned a great thing, if they reap from them a sustenance in Earthly things for their reward hercin. [*v. 11.*] which same Argument the same holy Apostle doth again make use of in another place to the like purpose [*Rom. 15. v. 27.*] 4^{thly}, From what is the practice in
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all others in the like case [v. 12.] For saith he, *If others be partakers of this power*, i. e. if all others, who take upon them to be Teachers among you, have this power allowed them of demanding and receiving a reward of their labour, how much rather ought the Ministers of the Gospel, the true Messengers of Christ, to have this power also? 5thly, From the parallel of the *Levitical Priesthood*, [v. 13.] as hath been already explained. And lastly, he concludes all by telling us, that the Lord hath ordained, that it should be so, [v. 14.] which puts that firm stamp of divine Authority upon it, as makes it a Law for ever upon all Mankind constantly to provide the Ministers of the Gospel, who shall be sent unto them, with such a Maintenance, as shall be sufficient to support them in the discharge of their duty in that manner, which may best tend to the promoting of Gods Honour, and Mans Everlasting Salvation. And to this end the same holy Apostle gives it as a standing Precept to the Church, *Gal. c. 6. v. 6.* That they, who

(w) Beza
in Com-
ment. ad
illum
Textum.

who are taught in the word, communicate to them that teach
ἐν πᾶσι ἀγαθοῖς i. e. *in all good things*,
 say the Authors of our Translation,
 (w) others of *all their Goods*, i. e.
 a part of all. And although the
 same holy Apostle for the better
 propagating of the Gospel in the
 first planting of it, and to silence
 all objections of self interest, and
 self design therein, was content to
 labour with his own hands, and
 thereby to support himself in his
 Ministry without being burdensome
 unto any, yet he takes care in more
 places than one to lay claim to the
 right, which he did not take pos-
 session of, and to assert the power,
 which he had, of demanding a
 Maintenance though he made no
 use of it. 2 *Theff.* c. 3. v. 9. 1 *Cor.*
 c. 9. v. 4. 6, 12.

C H A P.

C H A P. II.

Whether Tithes be due to the Ministers of the Gospel by Divine Right?

THUS far having examined through the Scriptures concerning the Maintenance of those, who officiate in holy things, and shown upon what Foundation it stood before the Law and under the Law, and on what it at present stands by the Law of Jesus Christ, I come now to the Celebrated Question, whether the determining of this Maintenance to a Tenth part of our annual encrease, as paid before the Law, commanded under the Law, and now practised in most Christian Countries, be of Divine Right? Which I shall briefly state from what hath been abovesaid in these following positions.

1. There is a difference between a Divine Right, and a Divine Original. For although whatever is
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of Divine Right must have its original from a Divine appointment, yet there are many things, which were first appointed by God, and consequently of Divine Original, which are not now of Divine Right. For

2. A Divine Right is that, which accrueth from a Divine Law, and therefore to create in any thing a Divine Right there must be a Divine Law in full force commanding, and requiring that thing from us, and that either Natural, or Positive.

1. The Natural Law is that, which God wrot in our Hearts from the beginning, and by that all Moral Duties are of Divine Right due from us, whether they be such as relate unto God, or such as relate unto Man. 2. The positive Law of God is that, which was given by Divine Revelation from him afterwards, and that is either particular or general. 1. Particular, as first when given only to particular Persons, and many such particular Commands, and directions we find given to holy Men of old, or 2dly, when given

given to a particular Nation, as was the Law of *Moses* to the Children of *Israel*, or else, 3dly, When appointed only with respect to the particular times, in which it was given, and the state, which things were then in, or for some especial occasion then emerging without laying any necessary obligation upon all succeeding Ages to do likewise, as were many of those Directions, and Commands, given by Christ and his Apostles at the first planting of the Gospel, which being intended only for those times carried not their obligation any further. And such was that of our Saviour to his Twelve Apostles and Seventy Disciples, when he commanded them (x) in the first mission, on which he sent them forth, that they should take neither Money nor Provision for the Journey, nor changes of Rayment, or Shoes to supply them in case of need, which was never intended for a pattern to all, that should be afterwards sent on the same Ministry. For although it had a general aspect to all Mankind in respect of the Maintenance,

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which

(x) Math.
10. v. 9.
Mark 6.
v. 8. Luke
9. v. 3. &
Luke 10.
v. 7.

which those, who are Taught in the Word and Doctrine, ought to administer to those who labour among them herein, yet in respect of the Apostles and Disciples themselves it aimed no further, than to be an experimental instruction to those extraordinary Ministers of the Gospel, who were to be sent out to be the first Planters of it through the Nations of the Earth, of the extraordinary providence, which should attend them in this work, so that they might not be discouraged from the mission by the fear of any want, they might suffer in the undertaking of it, how unprovided soever they should go forth thereon. 2. A General positive Law of God is that, whose obligation is from its first promulgation, without any exception of persons, times or places, general to all Mankind, and such was the Law of the Sabbath from the beginning, and such are the Laws of the two Sacraments in the Gospel of Jesus Christ, from the time of their first being given unto us. And all these Divine Laws, as far as they are given, create a Divine Right

Right in the things commanded by them, that is, that, which is general, as to all Mankind, and that, which is particular, only in respect of those particular persons, nations, or times, for which they were intended.

3^{dly}, A Divine Original (meaning that which is barely such, and no more) is where God is the Author or appointer of any thing, but without a Divine Law obliging all Mankind to the observance of it. And thus what God directed holy Men to of old by particular Divine Revelation, what he commanded the Children of *Israel* by that particular National Law, which he gave them, and what he hath appointed in his Church only with respect to particular times, occasions, and states of things, and whatsoever else *de facto* had its Original from him without a Law for its unalterable establishment, are all of Divine Original, because they had him for the Author and Appointer of them, but are not now of Divine Right, because their appointment was not accompanied with a Divine Law o-

bliging all Mankind to the observance of them. For although all these particulars, I have mention'd, were of Divine Right to those on whom they were first enjoyn'd, and during the time, for which they were intended, yet not carrying their obligation any further cannot be so to any afterwards, but must always be reckoned of Divine Original, as having God for the first Author and Appointer of them.

4. The practice of holy Men divinely inspired and divinely directed doth not prove a Divine Right, because to constitute that there must be a divine Law clearly promulgated to us, and manifestly requiring the duty from us. But it doth very well prove a Divine Original in matters relating to Religion, because God himself being the only prescriber of the ways, whereby he is to be acceptably Worshipped, it is by no means likely, that such Men, who had God in such an extraordinary manner for their immediate Guide, should practice any thing of this Nature, or which any way related thereto, without him.

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5. In the matter of Tithes there are two things to be considered, 1st, the Maintenance of these, who officiate about holy things, and 2^{dly}, the determination of it to a Tenth part of our annual encrease.

6. That those, who officiate in holy things should have a Maintenance sufficient to support them in their Ministry in such a manner, as may best tend to Gods honour, and Mans everlasting Salvation, is most certainly of Divine Right, the Law of God both Natural and Positive (as hath been above cleared) putting an undeniable obligation upon all Men thereunto.

7. The determination of this Maintenance to a Tenth part of our annual encrease is not of Divine Right, there being no Divine Law either Natural or Positive obliging us to it. To the *Jews* it was of Divine Right, because they had a Divine Law strictly requiring it from them, but this Law not reaching us, and there being none other given either before the Law or since the Law obliging all Mankind thereto, it must be confessed, that there

is no foundation to lay claim to this particular part, as that which is due of Divine Right exclusive of all other means and provisions, which may be made for this purpose instead of it. But

8. Although this be not of Divine Right, yet it is of Divine Original. For it was not only commanded by God under the Law, but was also practised before the Law by holy Men, who were divinely directed and divinely inspired by him, and therefore cannot be suppos'd in a thing of this nature to have acted without him.

9. In that Tithes had thus their Original from God, and it was by his direction, that they were paid before the Law, and by his command, that they were established in the state of *Israel* under the Law, this reacheth us as a Divine Precedent, though not as a Divine Law, and as far as a Precedent can be obligatory in any Government doth in Gods Government of the World lay an obligation upon all Mankind to do thereafter. For the full clearing whereof I shall show, 1st, what is the
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nature and obligation of a Precedent in general, and then 2^{dly}, of what force this particular Precedent for the consecrating of the Tithe of our substance for the support of Gods Worship is at present upon us.

And first concerning the nature and obligation of a Precedent in general I shall remark these following particulars.

1. A Precedent is an Example of Justice given in the application of Law to a particular case. For Laws are made for general Rules, but Precedents for particular Cases, and therefore as the Law doth direct us to the thing, which is to be done, so do Precedents to that, which is the Law in the particular Cases, which fall under that Law to be decided. For when a Law is once made, the next thing, that follows, is the Execution of it in all cases after emerging, and when any case hath been thoroughly examined in judgment by persons authorised thereto, who are of approved sufficiency to discern, and of unbiassed integrity to do what is right, the Decision, which they give therein,

in, usually becomes a Rule to all after Judges, for the giving of the like decision in the like case, without examining any further into it. And thus with us in this Realm the Decisions of Judges formerly famous in the knowledge and execution of the Law do become of the same validity, as the Law itself, and are made the standing Rules, whereby in like cases all other Judgments are given. And not only with us, but in all other Governments, which have been in the World, Precedents and judged Cases have ever had the like authority, and next the written Law itself have always been looked on to have a force in them to oblige Mankind to do thereafter. And indeed this is, what the nature of the thing generally leads us to through all the occurrences of life. For when any difficulty ariseth concerning any of our Actions, what is fittest and best to be done, and what not, what is more common, than to determine ourselves by what others, whom we think wiser and better than ourselves, have done in the same case
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before us ? And what is more reasonable, than that, when thus at a loss, we make the practice of such rather, than our own less able understandings, to be our guide herein ?

2. The strength and validity of every Precedent lyeth in its agreeableness with the Law, and the end and intent of him that made it. For the whole obligation is from the Law, and the Precedent doth no otherwise oblige, than as it is the Law in the case, where the Precedent is made, and doth there fully express in the Practice, what the other doth intend in the Rule. For in the decision of all cases, after the matter of fact is fully stated, the whole enquiry then is, what is the Law, and Precedents are of use only as helps and directions to lead us thereto. For there was never yet any Law made either of God or Man, that did so clearly and expressly direct to what was to be done in all particular cases falling under that Law, so as to leave no difficulty in the application, but often times some cases will happen,
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which the exprefs letter of the Law will feem not to reach, oftentimes the obligation of other Laws will intervene to perplex the matter, and in fome particulars the Law may feem to interfere with it felf, and frequently the very interpretation of the Words will require the skill of an able judgement to fet them clear, fo as to make all parts confift with each other. But ftill in all thefe cafes the fole inquiry of the Judge muft be, what is the meaning and intent of the Law, and he, that doth make his decifions beft to agree herewith, doth in them give the beft Precedents for others in the like cafes to judge by. For he, that makes the Precedent, doth not pretend therein to make a new Law, but only to interpret, judge, and declare, what is the fenfe and intent of the Law already made in that particular cafe, which he decides: So that the whole obligation of the Precedent is no other than the obligation of the Law, and therefore, as far as it agreeth with the Law, under which it falleth, it hath the force of that Law to bind

us to the observance of it, and where it doth not agree with the Law, it hath no force at all.

3^{dly}, Therefore the credit, and authority of every Precedent must depend upon the ability of him, that made it, to discern, what is the Law, and his integrity of acting according to it. For Men of a less piercing understanding may not be sagacious enough to see, what is the true meaning and intent of the Law in every case, which they decide; and supposing they are, yet, if they be not Men of integrity, they may out of sinister and corrupt designs give false Judgments, which ought not to be drawn into Precedent afterwards. But if they be Men of approved ability to judge, what is right, and of as sound integrity to act according thereto, we have then the greatest assurance, that we can have of Man, that their decisions are the Law and right in those cases, where they give them, and from hence they acquire that authority, as to become Precedents and Rules of practice in like cases ever after. So that the foundation, on which
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the credit and authority of all Precedents with us do stand; is the knowledge and the integrity of him, that gives it, and therefore

4. Because no knowledge of Man can be infallible, or can we be certainly assured of any Mans integrity in acting according to what he knows, for this reason no Precedent of Man can be a certain and infallible rule, or be of any further force or authority with us, than we can presume on the knowledge and integrity of him, that gave it; but according only to the strength of this presumption can the Precedent be of any such strength to oblige us to do thereafter, and therefore, where the knowledge and integrity of him, that hath judged the case, is suspected, it is usual to set the Precedent aside, and examine over the point again. And although, when we have a strong presumption of the knowledge and integrity of him, that judged the case, the Precedent doth become of unexcepted authority with us, yet still there must be this difference between the Law and the Pre-

Precedent, that whereas the Law doth certainly oblige, the Precedent doth not certainly, because we can of no Precedent of Man be certainly assured, that it is according to the Law in the case where given, unless we could also be assured of his infallibility to know it, and his never erring truth and integrity to give judgment according thereto, which being what no Man can attain unto, it follows that no Precedent of Man barely as a Precedent can ever lay upon us a certain obligation to do thereafter, or rise any higher in its force to bind us to the observance of it, than is the force of that presumption, which we have of the knowledge and integrity of him that gave it.

But 5^{thly}, God being infallible in his knowledge, and never erring in his truth, so as to be always infinitely above either being deceived himself, or deceiving us in any thing whatsoever, it must follow, that wherever he executes his Law, and gives us a Precedent in any case by his own determination of it, there the Precedent must be as certain as
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the Law , and lay upon us the same obligation in the like case to do thereafter. For being infallible in his knowledge, he must always infallibly know, what is the meaning and intent of the Law in every case, that can happen ; and being thus never-erring also in his truth, he must always judge according as he knows, and it is impossible, that he can ever fail in either, and therefore every Precedent of his is infallibly the Law in the case, where he gives it, and consequently must have the same force, that the Law it self hath, and lay upon us the same obligation in the like case to do thereafter. Besides where God executes his Law, the determination in the case is not only the Precedent of an infallible and never-erring Judge, but is also the Precedent of the Law-giver himself, and what can be more certainly the Law, than what the Lawgiver himself doth determine in the Execution of it ? And from whence can we have a surer interpretation of it, than from his own act herein ? For the Law always is in its intent and mean-

meaning in every case, what the Lawgiver willed and intended in the making of it, and therefore where the Lawgiver is not given to change and uncertainty (which the Lord our God is ever infinitely distant from) what is expressed by him in the Execution of the Law, must most certainly be what was intended by him in the Law, and consequently must be the Law it self in that particular, and with the same force in the like particular oblige us to the observance of it.

And thus far having treated of the Nature and Obligation of a Precedent in general, I come now to the particular Precedent in the case before us, in the handling of which I shall first state the Case, and then secondly show the obligation, which the Precedent, that God hath given us herein, doth lay upon us to do thereafter.

And first, as to the State of the Case, it is allowed on all hands, that it is the Law of God from the beginning, and that it hath been since ratify'd and confirmed by the Gospel, that a Ministry must be maintained for the support and carrying

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on of Gods Worship, and consequently that a portion of every Mans substance must be set a part for this purpose, and what that portion is to be in this or any other Land is the Case, which falls under this Law to be determined. For the Question is not, whether we are to pay Tithes or nothing (as too many would have it) but whether a Tenth, or some other part of our annual income. The Law of God doth not determine, what this part must be for the reasons already mentioned ; but is only in general for a sufficient Maintenance. This sufficiency therefore must be determined by the end, and intent of that Law, which is the support of Gods Worship in such a manner, as will best tend to Gods Glory and Mans Everlasting Salvation. That part therefore, which will make up such a Maintenance for Gods Ministers, as will best enable them to answer this end, must be the part which is to be consecrated to this purpose. For their Maintenance is commanded for this end only, that Gods Worship may be supported by them, and therefore that

that Maintenance, which will best conduce without excess or defect to the promoting of this end, must be that Maintenance which the Law of God intends, and that part of every Mans substance which is requisite to make up that Maintenance must be that part, which is to be separated in order to it. And therefore the exact Decision of this Case depends wholly on the adjusting of the means to the end, that is the proportioning the Maintenance of Gods Ministers to the support of his Worship (which is the Work they are employed about,) in such a manner, as not to carry the one any higher, or any lower than is necessarily required in order to the other. And this must be done either distinctly for every particular Place or Parish, or else by one uniform rule for the whole Community. To do it the former way would lay the burden very unequally upon those, who are to bear it, that is more in one place and less in another, according as in one place more and in another less would appear sufficient for the end intended, and after all the care,

that could be taken, it would be scarce possible for any Mans Understanding to look through every circumstance necessary to be considered in the adjusting of this point, so as exactly to hit it. And could it be done, yet the doing of it would be attended with so many perplexities, difficulties, and confusions, and so many reasons would continually emerge for the altering of the proportion stated from the alterations, which from time to time continually happen in every place, both as to persons, and things, as would make this way utterly impracticable, which infer the necessity of coming to the other way, the making one uniform rule by positive institution in every Community concerning this matter, in the doing of which two particulars are to be attended to, 1st, That the burden be made equal to all, that are to bear it, and 2^{dly}, That the portion to be set a part be sufficient for the end intended. The first will be fully answered by fixing it to one certain part of every Mans income, but what that part is, which will best answer the other, is the difficult-

culty. To fix on such a part for the whole, as may exactly reach a sufficiency in every particular place, is impossible, both because of the inequality of the Territories, into which Parishes are divided, and also the inequality in the merits, sufficiency, and other qualifications and circumstances of the Ministers, which may be placed to officiate in them, and therefore all, that is to be aimed at in this matter, is to appoint such a part for the whole, as may be, as near as can be, sufficient for the whole, and which for the most part will best provide for every particular, so that, if there be any defect, it be only from the unavoidable inequality of the distribution, and not from any insufficiency in the first allotment, which reduceth the matter wholly to this Question, *i. e.* What is the fittest portion of our Substance to be set apart in every Community for the support of Gods Worship in the Maintenance of those, who Minister in it? The Law of God hath not determined it, and the perplexity of the matter makes it too hard for Mans understanding to see

exactly, what is most fitting. But amidst this difficulty, though we have no direction from the Law of God (that only commanding in general a Maintenance to his Ministers) yet we have Gods Precedent in the Execution of that Law to guide us, what to do herein, that which God himself did, when he founded the Commonwealth of *Israel*, and that, which before this he directed *Abraham* and *Jacob* and other holy Patriarchs by divine inspiration to do in the same case, that is to separate a Tenth part of every Mans annual Income for this purpose. And that this Precedent doth put an obligation upon us in the same case to do thereafter, will appear manifest from these following reasons.

I. Because it is Gods Precedent. For he by virtue of his infinite and infallible knowledge, as well as by being the Law-giver himself, certainly knowing what the Law intends in every case, and by virtue of his never-erring Truth as certainly giving his determination according thereto, every Precedent of his in the execution of any Law, which
he

he hath made, must certainly and infallibly be the Law in the case where given, and therefore it must have the same force, which the Law it self hath, to oblige us in the same case to do thereafter.

2. Because we can no where else have a sure Guide to that, which we are to do herein. The Law only commands in general a sufficient Maintenance; how perplex'd and difficult a thing it is for to judge of this sufficiency, I have already shown, and how apt we are to deceive our selves in not coming up to the full right, where our interest is on the other side, (as it is in this case,) is too manifest, and therefore our own judgments cannot be safely trusted to herein. But in Gods Precedent we have a certain Guide, and in following that we are in the surest way to do all that in the performance of his Law, which is his will therein. And therefore since it is our duty not only to observe Gods Laws, but also to follow the surest Guides, that we can, in order to it, this must make it our duty to follow Gods Precedent in every case, where we have it, and that further

3. Because, where God gives us his Precedent, we cannot without offering indignity unto him vary from it. For if any Man refuseth to be guided by Gods Precedent, there can be but one of these two reasons for it, 1. That he will not do that, which is best, or else 2. That he thinks Gods Precedent cannot direct him to it. The former is direct renouncing of Duty, and the later affronts God in his Divine Attributes. For to say that Gods Precedent is not a sure Guide to that, which is best, must suppose him to fail either in his knowledge to discern it, or in his truth to do according to it, and what is this but Blasphemy against him?

The summe therefore is, God hath given a Law to all Mankind to separate a part out of Every Mans substance for the support of his Worship in the Maintenance of those, who attend the publick Ministry of it. That part, which will best answer this end for the promoting of Gods Honour and Mans Everlasting Salvation, is that, which in every Community is to be consecrated

crated to this purpose, and what part that is in this or any other Land is the case to be decided. To guide us herein God hath in the Execution of this Law given us a Precedent for the Tenth. 1. In directing the Patriarchs thereto, and 2. in commanding it by a National Law in the Commonwealth of *Israel*, which Precedents being founded in infinite Wisdom, and infinite Truth, must infallibly show us, what that part is, which doth best answer the end of the Law, and being Precedents of the Lawgiver himself, they must as surely declare unto us, what doth best agree with the will and intent of him, that made the Law, and therefore must certainly put an obligation upon us in the same case to do thereafter, and we cannot without detracting from his infinite Knowledge, or his infinite Truth, where the case is the same, vary from them.

To all this there can be but two Objections made, and they must be either, 1. That the Law is altered, or else 2. That the Case is altered. For if the Law still remains the same,

it must still have the same force, and a Precedent, that is certainly according to the Law, must always in the same case oblige to do the same thing.

That the Law is altered, none that contend about this matter (unless the *Quakers*, who pretend to exclude all Hirelings, as their phrase is, from the Ministry) will ever deny, but all readily grant, that the Law, which commands a portion of every Mans Substance to be set apart for the support of Gods Worship in the Maintenance of those who Minister in it, is still of force upon all Mankind.

All therefore that remains to be objected is, that the Case is altered, and those, who will object this, must make it out one of these two ways, 1. From the alteration or change of the Priesthood, or else 2. From the change of the Country. For all that they can say is, that the Tithes prescribed by God in the Law were only for the *Levitical* Priesthood, who Ministered in the *Mosaical* Oeconomy, and were calculated only for the Land of *Canaan*,
and

and therefore that Priesthood with the whole Oeconomy, to which it was consecrated, being abolish'd, and we now being under a different Priesthood, and a different Oeconomy, and living also in a different Land, this makes such an alteration in the Case, as makes the Precedent not applicable to it, and therefore it can be of no force to oblige us to do thereafter. And I must freely acknowledge, that, did these alterations make any alteration in the Case, this consequence would plainly follow, and the Precedent would no longer be of any force to oblige us to conform our practice to it. For although Laws bind in all cases, Precedents do not, but only in such, as are exactly the same with those, wherein the Precedents were first made. But it is not every alteration, which happens in a thing, that alters the case in reference to the Precedent given, but only such an alteration, as makes an alteration in some of the reasons of Law, which caused that Precedent first to be made. And therefore were the reasons, for which
Tithes

Tithes were given to the *Levitical* Priesthood under the *Mosaical* Oeconomy in the Land of *Canaan*, such as would not hold good for the Priesthood in the Oeconomy, under which we now are, or in the Land in which we now live, the alteration here would, I confess, make an alteration in the case, and wholly set aside the Precedent from being of any longer force with us. But that there is no such alteration made in the case by either of them, that is, either by the change of the Priesthood, or by the change of the Land, I shall show of each of them in their order.

And 1. as to the change and alteration of the Priesthood, I must here observe in the first place, that this Argument offers only at the invalidating that Precedent, which is from the *Mosaical* Law. But God hath not only given us a Precedent for the Tenth part for the Maintenance of the *Levitical* Priesthood, but also before for the Maintenance of the *Melchizedekal* in directing *Abraham*, and *Jacob*, and the other Patriarchs to pay Tithes thereto, which

which *Melchizedekal* Priesthood on the abolition of the *Levitical* being again restored in Christ, if a Precedent from the *Levitical* Priesthood for the payment of a Tenth part will not hold good for the Christian, because of the change of the Priesthood, yet certainly a Precedent from the *Melchizedekal* will, for they are both ($\approx$) of the same Order. But that the validity of the other Precedent may also appear.

(?) Heb. 5.
v. 6. 10.
c. 6. v. 20.
c. 7. v. 11.
15, 17, 21.

2. I deny, that the alteration of the Priesthood doth make any alteration in the case, or that there ever were any reasons for the payment of the Tenth part to the *Levitical* Priesthood, which do not hold good, and with much greater strength, for the same payment to the Christian, and therefore the change of the order can be no argument for the change of the Maintenance, or at all operate in order to it. For if it doth, it must be either for a larger portion, or for a lesser. As to a larger portion, it is not claimed, and therefore there can be no dispute about that. And as to a lesser, if there be any such alteration in the case,

case, as makes any of the reasons for the payment of Tithes to the *Levitical* Priesthood not to hold good for the same payment to the Christian, it must be one of these following, 1. That the work and duty of the Christian Priesthood is lesser, than was that of the *Levitical*, 2. That the Qualifications necessary to this Priest-hood are lower, than those, that were required to the other, 3. That it is of less dignity and value, 4. That it doth not require so great charge for the Maintenance of it, 5. That it is otherwise sufficiently provided for, or else 6. That so great a number is not necessary to the discharge of it. But of all these I shall show the contrary in their Order.

And 1. The work incumbent on on the Christian Priesthood is not lesser, than was that of the *Levitical*, but vastly greater. For the work of the *Levitical* Priesthood was only to attend the service of the Sanctuary, which they did not do constantly, but only once in four and twenty weeks. For the
Priests,

Priests, as well as the Levites were divided (a) into four and twenty Courses, of which each went up to Jerusalem to serve a week in its order, the Priests to attend the offering of Incense, Sacrifices and Oblations, and the Levites to be Porters, Singers, and to perform all other Ministerial Offices under them, and (b) each Course being subdivided into seven Classes, each Class served its day, and when the Week was over, they returned all home, and were succeeded by another Course, so that in Truth no Priest or Levite under the Mosaical Oeconomy served any more than two days in an Year (excepting the greater Festivals, when all appeared) because their Course came no oftner, and no particular person served above one day in the Course. And when they were returned home, they had nothing further to do in their Sacerdotal Office, till their course came about again, but went to the Wars, Tilled the Ground, and followed other Occupations, like other Men. For we find in David's Army, while he Reigned

in

(c) *1 Chron.* in *Hebron*, of the *Levites* (c) four
c. 12. v. thousand six hundred (d) all ready
 16. (d) *1 Chron.* Armed to the War, and of the
c. 12. v. Priests (e) three thousand seven
 23. (e) *1 Chron.* hundred, among whom was (f)
c. 12. v. Zadok, that was afterwards High
 27. Priest, who is said to be a Young
 (f) *1 Chron.* Man mighty in Valour, and with
c. 12. v. him twenty and two Captains of
 28. his Fathers House, and their chief
 (g) *1 Chron.* Leader (g) was *Jehoiada* a Priest,
c. 12. v. whose Son (h) *Benaiah* is rec-
 27. (h) *2 Sam.* koned one of the chief of *David's*
c. 23. v. mighty Men, and was afterwards
 20, 21, 22. in the Reign of *Solomon* made
1 Chron. c. Captain General (i) of all the
 11. v. 22. Armies of *Israel* in the place of
 23, 24, 25. (i) *1 Kings* *Joab* the Son of *Zeruiab*. And
c. 2. v. 25. *Ahimaaz* the Son of *Zadok*, who
 & *c. 4. v.* afterwards succeeded his Father in
 4. the High Priesthood, fought (k)
 (k) *2 Sam.* in the Battel against *Absolom*; and
c. 18. v. *Jonathan* the Son of *Abiathar*, who
 19- was High Priest through all the
 Reign of *David*, is called in Scrip-
 (l) *1 Kings* ture (l) a Valiant Man, an appel-
c. 1. v. 42. lation, which can belong only to
 one used to the War.

And

And *Phineas* the Son of *Eleazar*,
 was sent forth by *Moses* himself to
 be (*m*) chief Commander of the Army, that smote the *Midianites*.
 Its true the Scripture saith (*n*) The
Priests lips should keep knowledge, and
 the People should seek the Law at their
 Mouth. But this was understood
 no further, than that they should
 be ready to instruct all such, as ad-
 vised with them, in all the Rites
 and Ceremonies of Gods Worship
 Commanded in the Law, that so
 being directed herein by those,
 whose attendance on the Service
 made them most experienced in it,
 they might perform it in such a
 manner as God required. As to
 the Synagogues (which were the
 same among them in every City and

(*m*) Num.
 31. v. 6.
 It must be
 here ac-
 know-
 ledged that
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 Writers
 speak of an
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 among the
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 who al-
 ways went
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 for a mili-
 tary, but
 a Priestly
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 which is
 command-
 ed Deut.
 20. v. 1.
 2, 3, &c.
 Whom they
 call the a-

pointed for the Wars, and they will have *Phineas* to have gon
 this Expedition only as this Officer, but the text speaks of him as
 the Person, that had the charge of the whole War, and he seems
 particularly designed for it, because he first began the Hostility
 in slaying *Zimri* and *Cosbi* in the matter of *Peor*, perchance he
 might go on both these Offices, as well to Command the Army, as to
 do that Office of a Priest in it, which is above mentioned. (*n*)
 Malachi c. 2. v. 7.

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Town, as the Parish Churches are now among us) in which their publick Prayers were constantly performed, and Sermons Preach'd every Sabbath Day to instruct the People in the Law of God, and the Duties of their Religion towards him, this Service lay not upon them, or were they by virtue of their Priestly function, or the Maintenance, which they received on this account, at all obliged to it; but such (o) were chosen to this Ministry indifferently out of every Tribe, who had by a previous Education, and long Study in the Scriptures, best fitted and qualified themselves for it. And of such they had ten in every Synagogue, and in the time of our Saviour there were (p) Four hundred and eighty of these Synagogues in *Jerusalem* only, by which we may judge, what their number were through the whole Land. And for the Maintenance of these the People were at a new charge over and above the Tithes, First Fruits, and Oblations, which they paid the Priests, and *Levites*. But upon the Evangelical Priesthood

(o) Maimonides in Sanhedrin.

(p) Talmud Hierosol. in Megillah fol. 73. col. 4. Rabbi Solomon in Ezechiel cap. 2. v. 1.

hood for the Tithes, which they receive, the Service of the Synagogue, as well as that of the Sanctuary, is incumbent, and their Business is not only to administer the Sacraments, but also constantly to Preach the Word of God unto the People, and take on them the care of their Souls, and daily watch over them, and assist them in every thing necessary to lead them to everlasting Life, which is so busy and weighty a charge, as takes up the whole Man, and allows them no leisure for any other employment with it, either for the gaining, or the bettering of their subsistence by it. And therefore as the Scripture Commands, that they who preach the Gospel should live of the Gospel, so also doth it, that they shall give (q) up themselves (q) ^{1^o Tim.} wholly hereto without entangling C. 2 v. 4. themselves with the World, or any of the affairs of it. And the Laws of this Realm bind them down very strictly to it, forbidding (r) under great penalties and forfeitures all those, that are in the (r) ^{Sta-} Ministry, from engaging them- ^{tute A.} ^{21. H. 8.} ^{C. 13.} selves

selves in any other imployment whatsoever. And this sufficiently shewing, how much greater the work of the Christian Priesthood now is, than ever was that of the *Levitical*, no reason certainly can be deduced from hence to prove a lesser Maintenance to be due unto them for the performance of it. But

2. As the work of the Christian Priesthood is not less, than was that of the *Levitical*; so neither are the qualifications necessary to it lower. In every work, I acknowledge, the wages are to be estimated according to the qualifications, which are necessary in the person to enable him to perform it, and therefore, were the qualifications necessary to the Christian Priesthood lower, than those, which are necessary to the *Levitical*, there would then, I confess, be some reason from hence to lower the Maintenance. But the case is quite the contrary. For the whole Duty of the *Levitical* Priesthood consisting only in the Service of the Sanctuary to attend there in their course for to offer Sacrifices, Incense, and Oblations in the manner, as I have
already

already said, no Endowments of the Mind, either natural, or acquired, were at all necessary for the performance of it, and therefore in order to their admission to the Priesthood they were examined only on these three Heads (/) 1. Whether they were of the true Sacerdotal line legitimately descended, 2. Whether they were of the full Age, which the Law required for their admission, and 3. Whether they were free of all bodily blemish ; and if on thorough search and examination they were approved of, as to these particulars, they were forthwith admitted to the Office, though void of all other qualifications, because none other were judged necessary for the work, which they were appointed unto. But with the Christian Priesthood it is quite otherwise. For the work, which they are appointed to, being to preach the Gospel, as well as to administer the Sacraments, and to defend the Truth of it against all opposers, this requires the qualifications of knowledge, and a sound Judge-

ment,

F 3

(f) Maimonides
in Biath
Hammik-
dash c. 6.

ment, not only in the Scriptures, but also in many other things, which are not to be acquired, but by long study, hard labour, and a chargeable Education, and therefore the change of the Priesthood may very well on this account be pleaded for an higher, but by no means for a lower portion for the Maintenance of it. Neither

3. Can it be said that their Priesthood is of lower dignity, and value. According to the dignity of the Office is the Officer (I acknowledge) to be maintained, and therefore, were the Christian Priesthood of lower dignity and value, than the *Levitical*, a lower Maintenance would suffice for the support of those, who officiate in it. Now the dignity and value of any Office is to be estimated from the nature and value of the things it is executed about, and therefore the *Levitical* Priesthood officiating only about Types, and Shadows, of which the Realities, and true Substance are administered unto us by the Christian Priesthood, as far as the substance is above the shadow,
and

and the real thing, which is typified, above the Type, so far certainly must the Christian Priesthood be in dignity and value above the *Levitical*, and therefore no reason can be had from hence for a lower Maintenance to be allotted to it.

4. As to the charges of living in any Office, these being to be stated according to the dignity of the Office, the quality of those, that officiate in it, and the particular Oblations, which the Office lays upon them thereto, on all these accounts the Christian Priesthood is much more chargeable to those, that bear it, than ever was the *Levitical*. For the *Levitical* Priesthood being only about those outward Rites and Ceremonies, which were no more than the Types and Shadows of those real good things, which are now communicated to us by the Christian Priesthood, their Office went no further than bodily labour, and therefore any Man of that Race, that was whole of body, and of full age for the work, was judged sufficiently qualified for it. Furthermore they had no particular Districts for the execution of their Of-

rice, where they were to live as publick persons, but all dwelt together in a private manner in the Cities, that were assigned them. Neither had they each his particular work in the Priesthood, but as it was divided to them by lot at the time of the Ministration, and although they went up to *Jerusalem* for the execution of their Office, when their Courses came, in the same manner, as I have said, yet this was but twice a year, and then they were at no expence in the Duty, but were Maintained out of the Sacrifices, that were offered, and not only so, but had every time they officiated a reserve over and above for the support of their Families also. And therefore being neither by education, or qualification of mind, or station of publick charge, above the rest of the people, they were in all things as to their way of living on the same level with them, and no way obliged by reason of their Office to any greater expence, than if they had been without it. But as to the Christian Priesthood it is in all things quite the contrary. For to
this

this many qualifications of parts, and learning, and a chargeable Education for the acquiring of them, are necessary, which put those, who are invested with it, into the rank of the better sort, and they must be Maintained accordingly. Besides each of them have their particular Districts or Parishes, in which they officiate, and where they live as publick persons, and have a publick charge upon them in governing and directing the Consciences of their people, in which they are continually imployed without intermission, and the constant resort, which is had unto them on all occasions on this account, is not without it's expence. Moreover the Law of their Priesthood obligeth them to be given (t) to Hospitality, and ready to distribute for the relief of those, that want, and consequently they must have over and above their own Maintenance, wherewith to do it. And all these particulars obliging the Ministers of the Christian Oeconomy to a way of living much more chargeable, than was that of the

Sonu

(t) 1 Tim.
C. 3. v. 2.

Sons of *Levi*, from hence nothing certainly can be alledged to make the Maintenance lesser, which is to enable them hereto. Neither

5. Can it be said, that the Christian Priesthood is otherwise sufficiently provided for, so as not to need the Tithes, which maintained the *Levitical*. Sure I am that no objection of this Nature can hold good against the payment of them in this Land, or is there any other such provision here made, as may supersede the necessity of them. Were there so, I acknowledge, there would then be reason not only to lessen, but wholly to take away the Tithes. For the Law of God, which commands the providing of a sufficient Maintenance for those, who Minister in holy things, doth not absolutely pin us down to the manner of doing it. Only where the provision is to be made by a portion out of every Mans substance (and so it must be done, wherever there is not an equivalent settled some other way) we have Gods Precedent for a Tenth, as the fittest part to answer the end of his Law,
and

and this Precedent in the like case (I hope) I have sufficiently proved, ought to be followed. But if there be an equivalent settled some other way, whether by a fixed Salary instead of the Tithes, or a portion of land of like annual value, the Law, which requires no more than a sufficient Maintenance, is already satisfied, and there would be no reason to claim the Tithes too, and therefore this alteration of the Case would make the Precedent by no means applicable to it. But that there is this alteration in the case I utterly deny. For although most Churches among us have Manfes and Glebes, and were most of them originally founded in them, yet these fall vastly short of a sufficient Maintenance, and are so far from being an equivalent to the Tithes, that it would be well, if they could in this Land half make amends for what is by Compositions, Customs, and Prescriptions deducted from them, besides what is lost by the concealments, and frauds of those, who are to pay them. Moreover if we take the Precedent from the

Le-

Levitical Priesthood in its utmost rigour, it will plead for much more than the Tithes, which are now claimed for the Maintenance of the Christian Priesthood. To answer

(u) Num.

35. v. 1.

2, 3, &c.

Joshua 21.

v. 2. 3.

4, &c.

(w) See

Comber

of Tithes

Part 2. c.

2. p. 10.

where

the propor-

tion is de-

monstrat-

ed.

(x) Mai-

monides

in Tract.

Maasher

Sheni

et in

Tract.

Matte-

noth Ani-

im c. 6.

(y) Deut.

12. v. 18.

& c. 14.

v. 27.

(z) Deut.

14. v. 26.

27.

our Glebes they had their (u) forty eight Cities assigned them to dwell in, which with the Suburbs or Fields adjoyning made about (w) a thirtieth part of the Land of *Canaan*, a proportion to the whole, which all the Glebes and Church Lands in this Kingdom do not by much amount to. Besides there was a (x) second Tithing, of which also a great part went to the *Levites*, whether they were eaten (y) at *Jerusalem* at their greater Festivals (for the support of which these Tithes for two years in three were always set apart) or else given (z) to the poor (as they were on the third Year.) And all these Tithes were brought home to them fully dressed, and prepared for their use, that is the Corn Threshed, Winnowed, and Dressed, the Grapes made into Wine, and the Olives into Oyl, and so it was as to all things else, of which they received

ceived Tithes, it being a fixed Rule among the *Jews*, that they ought not to pay their Tithes, (a) *nisi* ^{(a) Maimonides in Tract. Maasser.} *perfecto opere*, that is till they were made ready and fit for use. But

Ministers among us are at great charges and trouble, first to gather and fetch home their Tithes, and afterwards to fit and prepare them for their use, which makes them at least one fourth part less valueable to them, than they were to the *Levitical* Priesthood. Besides they are often at the great expence and vexation of Law Suits to recover them, which the Ministers of the *Levitical* Dispensation were wholly freed from. For it was unlawful among the *Jews* (b) to taste, eat, ^{(b) Maimonides in Tract. Maasser.} or expose to sale any of the Fruits of the Earth, till first the Tithes were justly and duely separated from them, or would any Man buy them, or receive them from them, till they were. And over and above these Tithes, and Cities for them to dwell in, the *Levitical* Ministry had a great many more emoluments and perquisites belonging to them, which vastly encreased their revenue

- venue above that, which now belongs to the Christian Ministry in this Realm. *Maimonides* (c) reckons them up in this order 1. The Flesh of the Sin Offerings, (d) whether Fowls, or Beasts. 2. The Flesh of the (e) Trespass Offerings, both which are reckoned as part of the Priests Maintenance by *Ezekiel* c. 44. v. 28. 29. 3. The (f) Peace Offerings of the Congregation. 4. The remainder (g) of the *Omer* or Sheaf Offering, which was yearly made at the Passoever. 5. The remnant (h) of every Meat Offering, that was offered unto the Lord. 6. The (i) two (i) Loaves, that were offered at the Feast of Pentecost. 7. The Shew (k) Bread, which were 12 Loaves, that were set before the Lord on the Shew Bread Table in the Temple every Sabbath, and were always on the Sabbath after taken away, and divided among the Priests, that officiated, and new ones set in their stead. 8. The (l) Lepers Log of Oyl. 9. The (m) wave brest, and heave shoulder of the peace Offerings. 10. The (n) Heave Offering of the Sacrifice
- (c) In tractatu Bicurim cap. 1.
(d) Levit. 6. v. 25.
(e) Levit. 26.
(f) Levit. 23. v. 19.
(g) Levit. 23. v. 10.
(h) Levit. 23. v. 17.
(i) Levit. 23. v. 17.
(k) Levit. 24. v. 9.
(l) Levit. 14. v. 10.
(m) Levit. 7. v. 31.
(n) Levit. 7. v. 12.

fice of Thanksgiving. 11. The
 heave Offering (*o*) of the *Nazarites* (*o*) Num.
 Ram. 12. The Firstlings (*p*) of the *Clean Beasts* (*p*) Num.
 13. The (*q*) *Biccu-rim*, or First Fruits, which were brought to *Jerusalem* every Pente-
 cost, and there divided among the Priests. They were of Wheat, Bar-
 ley, Grapes, Figgs, Pomegranets, Olives, and Dates, and this Offering
 contained about the fiftieth part of what the Land produced of these
 kinds. 14. (*r*) The *Truma*, or great Heave Offering, which contained
 about a fiftieth part of every Mans annual product of the Fruits of the
 Earth in the same manner, as the First Fruits did of the kinds mentio-
 ned. For of both these the *Hebrew* Doctors say (*s*) a good Eye (that is a liberal Man) gives a fortieth part,
 an evil Eye (that is a Niggard) gives a sixtieth part, and therefore the fiftieth part, which is in the
 middle between both, may very well be computed to be that, which was
 given for the whole. 15. The Cake, (*t*) which every Man annually offered of the first of his
 Dough.

(*o*) Num.
6. v. 17.

(*p*) Num.
18. v. 18.

(*q*) Num.
18. v. 13.

(*r*) Num.
18. v. 12.

(*s*) Mai-
monides
in *Biccu-*
rim &
Tru-
moth.

(*t*) Num.
15. v. 20.

- (u) Deut. 18. v. 4. Dough. 16. The first (u) of the Fleece of the Flock, which was in the same manner, as the *Biccurim* and the *Truma*, about a fiftieth part of the whole. 17. The Shoulder, the two Cheeks, and the Maw of every Beast, that was kill'd for common use. For the Text *Deutr.* 8. v. 3. cannot be understood of Sacrificeing, as our version renders it, but must be translated thus, *And this shall be the Priests due from the people, that kill any Beast, whether it be Ox, or Sheep, &c.* And the constant sense of the *Jews*, as well as their practice, was agreeable hereto. 18. The (w) Redemption of the First-born, which was the price of Five Shekels of the Sanctuary for every First born Son (*i. e.* of the Mother, not of the Father) to be paid as soon as the Child was a Month old, which came to about Fourteen Shillings of our Money, an *Hebrew* Shekel of the Sanctuary being somewhat more, than half an Ounce of Silver. 19. (x) Exod. 24. v. 20. Num. 18. v. 15. The (x) Firstling of the Ass, which was to be redeemed with a Lamb. (y) Num. 5. v. 8. 20. The (y) restitution of that, which

which was stolln from the Stranger, or the Profelyte, who being dead, or gon out of the Land, had left no Kinsman behind, that might receive it. 21. The (2) devoted things, ^{(2) Num. 10. v. 4.} i. e. such as were devoted absolutely. For if they were devoted to any special Sacred use, they were to be employ'd to that use only, to which they were devoted, but if there were no special Sacred use mentioned, when they were devoted, they then were to be given to the Priests. 22. The (4) Skins ^{(2) Levit. 7. v. 8.} of the Sacrifices, which were offered at the Temple. For these were every week divided among the Priests, that officiated, and often amounted to be of very considerable value. Now all these accrued to them only by way of Perquisites, but putting them all together, they did alone make a vast Revenue. And all this with the forty eight Cities, which they had to dwell in, and their share in the Second Tithes, and Tithes of the Poor, the *Levitical* Ministry had over and above the Tithes, which are now claimed among us by the Ministers

of the Gospel, and were by the same divine appointment fixed and settled on them. And therefore the Glebes, and Church Lands, which are now held with these Tithes in this Realm, can by no means make any such alteration in the case, but that the Precedent, which God hath given by commanding the payment of those Tithes in the *Jewish* State for the support of his Worship in the Maintenance of those, who there Ministered in it, will now under the Gospel hold good for the same payment in this State also, notwithstanding any such Glebes or Church Lands, because what was held with these Tithes by the *Levitical* Ministry, was vastly more, than all the Glebes and Church Lands in this Realm can amount to. For putting them all together, they will not come to above One hundred thousand pound *per Annum*. What belongs to Bishops and Deans and Chapters at the largest computation, reckoning in their Fines as well as their Rents, I cannot make to arise higher than Seventy five thousand pound *per Annum*, and of this at least

a 3d (aa) part being in appropriated Tithes, there remain only Fifty thousand pound *per Annum* in Lands belonging to all the Bishops and Deans and Chapters in this Realm, and if we add hereto the Glebe Lands belonging to Parish Churches, Fifty thousand pound *per Annum* I reckon, is the highest value they can be laid at. So then the whole income of all the Church Lands and Glebes in *England* and *Wales* will amount to One hundred thousand pounds *per Annum*, which, computing the value of all the Lands of both, that is the whole Realm, at Fifteen Millions *per Annum* (as it is (b) usual-reckoned at) is about the hundred and fiftieth part of it, whereas the Cities and Lands alone assigned the *Levitical* Ministry in *Canaan* was a thirtieth part of that Land, which is five times as much, and this is but one of those many particulars, which (I have shown) did over and above their Tithes belong unto them.

6. As to the Number necessary to the Ministration, were the matter to be determined according as it

(aa) Mr Prin in his Printed Speech in the House of Commons on the 4th of December, 1648. touching the satisfaction of the Kings Answer to the Propositions of both Houses doth affirm, (p. 68) that near one half of the Arch-Bishops and Bishops possessions and Revenues consists in Impropriations, Tithes, Pensions, and the like. (b) Davenant's Discourse on the Publick Revenues and on the Trade of England.

hath stood in fact, this particular may seem to alter the case, and afford some pretence for allotting a lesser portion for the Maintenance of the Ministry under the Gospel, than was formerly Commanded under the Law. For it must be confessed, that the Ministers of the Gospel in this Realm are, by much, fewer in respect of the whole, than were the Ministers of the *Levitical* Rites among the Children of *Israel*, for whom Tithes were appointed by the Law of *Moses*, though the disproportion be by no means so great, as it is generally apprehended. What part the Priests and *Levites* were of the whole body of the Children of *Israel*, will best appear from that account, which we have of both in the latter end of the Reign of King *David*, when that People were both as to Church and State in their most flourishing condition. For then we find them all numbred, the Priests and *Levites*, as well as the rest of the People; the (c) People by *Joab*, and the Priests and *Levites*, afterwards (d) by King *David*, when he

(c) 2 Sam.

c. 24.

1 Chron.

c. 21.

(d) 1 Chr.

c. 23. v. 2.

he distributed them into Courses a little before his death. The People of *Israel*, that were numbered by *Joab*, were (e) One Million five hundred and seventy thousand all valiant Men, that drew the Sword, and were fit to go forth to War. To whom for the Tribe of *Levi* and *Benjamin*, and the Inhabitants of *Jerusalem* the Royal City, (f) whom *Joab* did not number, and for the Profelytes of other Nations, who dwelt among them, we may very well add two hundred thousand more in the same manner qualified, and then the whole number of that People, such as were fit to go forth to War, will amount to One Million seven hundred and seventy thousand Men, besides which the Males, that were Children, aged, or otherwise unfit for the Wars, cannot be computed to be less, than as many more, which being added to the former, will make the whole number of the Males of the Children of *Israel* and the Profelytes ingrafted among them at that time, to be Three Million five hundred and forty thousand, and to these

(e) Chro. c. 21. v.

(f) 1 Chr. c. 21. v. 6. and c. 27. v. 24.

reckoning as many for the Females, the whole number of Souls then for that Nation will amount to Seven Millions and eighty thousand. For although here with us the Females (as appears by the Bills of Mortality in *London*) are fewer than the Males, yet it could not be so among the Children of *Israel*, for then there could have been no room for Polygamy among them. Of this number the Priests and *Levites*, who then Ministred in holy things (g) were thirty and eight thousand, which is about the hundred eighty seventh part of the whole, a proportion vastly short of that, which it is usually stated at, though not short enough however wholly invalidate the argument. For still it will be objected that the Inhabitants of this Land being by common computation at least (h) Seven Millions do equal the number of the people of *Israel* in the reign of King *David*, but all the Minist'ing Clergy among us do not exceed ten thousand, so that they are but a little above a fourth part as many, as were those of the *Levitical* Priesthood,

(g) 1 Chr.
23. v. 3.

(h) Dove-
nant's Es-
say upon
wars and
means of
suppressing
the War.
p. 126.

hood, to whom Tithes were paid by the Law of *Moses*, though the number of the People, to whom they do Minister, are altogether the same, and therefore it may be argued, I confess, with some plausible show of reason at first appearance, that a Precedent for payment of a Tenth part of every Mans Substance to Maintain a Ministry of thirty eight thousand cannot in a Community of the same Number hold good for the payment of as much for the Maintenance of a Ministry, that is very little above the fourth part the as many. For it will be said, if now under the Gospel a fourth part of the number will suffice in the Ministry of what formerly did under the Law, a fourth part of what was then given may also suffice to maintain them. And thus far having laid down the Objection in its full strength, I shall give these following answers to it.

1. It doth not appear, that the Children of *Israel* had no more Ministers of Religion, than were necessary, or that we have all that are so. They attended only one Tem-

ple, the Clergy of this Land do attend above Ten Thousand; they were upon the r Courses only two weeks in a Year, and upon Service only two d ys of these two weeks, but the Christian Ministry are bound to be at their charge the whole Year round, and had the *Levitical* Ministry been so too, instead of thirty eight thousand, which was their number on King *David's* Roll, an hundred sixty and six, that is the seven h part of one Course (for no more of them were upon actual service at the same time) would have sufficed for the whole Ministration. But on the other hand were the Christian Ministry as many with us, as were the *Levitical* in the time of King *David*, there would be work enough for them. For in this case every one would have one hundred eighty six Souls under his Charge, which are enough to take up the care of any one Man, if du ly attended, and many of our Parishes do not consist of more, and therefore were the matter to be governed according to the number, that is necessary, it will from hence appear that a vastly greater number is

is necessary in the Christian Ministry, than ever was in the *Levitical*.

2. I have already shown, that it is not every alteration, which is made in any thing, that alters the case, so as to make a former Precedent not applicable to it, but only such an alteration, as alters the reason and state of the matter, on which the Precedent was first founded, and therefore were the number of the *Levitical* Ministry the reason, why God gave them the Tithes of the Children of *Israel* to maintain them in their function, and were that Maintenance allotted them as stated and proportioned according to that number, I freely acknowledge the alteration of the number would then have altered the case, and another number would have been a reason for another Maintenance, either higher or lower, according as it should become more or less, than that on which the Establishment was first made. But if the Maintenance had been thus fixed for a certain number, that number must have been fixed also, and had the Tithes been given purposely to maintain so many, it must have been provided,

ed, that so many should have been in the Ministry, and no more, nor no less, always to receive them. For otherwise every alteration in the number would have broken the proportion stated, and overthrown the very foundation, on which the Law was made. But there was never any Ministry in any Religion more uncertain, as to the number, than the *Levitical*. For it was not proportioned either to the Work, or Territory, or the rest of the Body of the People, but wholly chosen according to the number of the First-born, which were saved from the Sword of the destroying Angel in the Land of *Aegypt*. For when God smote the First-born of the *Aegyptians*, having spared the First-born of the Children of *Israel* among them, he did for this reason claim an (i) especial right to the First-born for himself, and instead of them having by way of Commutation and Redemption (k) accepted the Tribe of *Levi* (which very near equalled their number) to the Service of his Sanctuary, the Ministry of Religion among that People became thenceforth fixed to that

(i) Exod. 13, v. 2. & chap. 2. v. 29. & chap. 34. v. 19. 20. Num. c. 3. v. 12. and chap. 8. v. 17. (k) Num. 3. v. 12. and v. 45. 46 &c. and chap. 8. v. 16.

that Tribe, and consequently liable ^(l) Num. 4. v. 48. to be more or less in number, according as that Tribe encreased or decreased in their after propagations, ^(m) 1 Chr. 23. v. 3. and hence it came to pass, that whereas they were only ⁽ⁿ⁾ Ezra c. 2. v. 36. thirty eight thousand in the first appointed to this Ministry by Moses, they did afterwards grow to be thirty ^(o) Ezra c. 2. v. 36. eight thousand in the time of King David, and on the ^(p) 37, 38, 39. *Babylonish* Captivity again decreased down to the number ^(q) of Four thousand six hundred and twenty. For there were no more of them on the restoration of the Temple after that Captivity, that is four thousand two hundred eighty and nine of the Sons of Aaron, and three hundred thirty and one of the rest of the Families of the Levites. For of the 24 Courses of the Sons of Aaron there were then ^(r) only four

after the Captivity, yet what the Jewish Writers tell us solves the matter. For they say, That the four Families, which returned, divided themselves into 24 Courses, as before, and also took the same names, as they had when settled by K. David, and hence it is that after the Captivity the names of Joarib and Abia were given to Courses, although there were none of their posterity then in being. See Talmud Hierosol in Taanith, fol. 68. co' 1. & Talm. Bab. in Erachin. fol. 12.

remaining, the rest being extinct, or staying behind in the Land of their Captivity. But these four about the time of our Saviour again grew to be five thousand in each Family, that is twenty thousand in the whole, and perchance by that time the *Levites* might be encreased to be near as many, and then the number of the whole Tribe will be the same, as in the time of King *David*. And therefore seeing their number was thus so different, and uncertain, it cannot be said, that their Maintenance was fixed to a Tenth part of every Mans substance with respect to that number, as proportioned to it, because nothing can be fixed to a certainty with respect and in proportion to that, which is liable to so great and vast an uncertainty, as the number of the *Levitical* Ministry was under all that Dispensation.

3. Supposing that under the Gospel a fourth part of the number would suffice in the Ministry of what formerly did under the Law, yet this will not be a reason to detract from the present Tithes, because

cause these were not a fourth part of what the Law allotted for the Maintenance of those, who Ministered in that Religion, which the Law enjoyn'd. What the particulars are, which the *Levitical* Ministry had over and above the Tithes, that are now paid among Christians, I have already reckoned up, and these were peculiar to the *Levitical* Constitution, but the Tithes were not. For they were established before the Law, and we have Precedents in Scripture for the payment of them for the support of Gods Worship in the Maintenance of his Ministers by persons divinely directed and divinely inspired, long before the *Levitical* Ministry had its Original, and prophane Writers give us many more such among most of the ancient Nations of the Earth, and thereby they are undoubtedly proved, as I have afore shown, to have had their Original from divine direction, as that portion of our annual income, which through all Dispensations will afford the most suitable Maintenance for those, who officiate in Divine things; and there-

therefore when God publicly gave a Law to his people, he publicly commanded the payment of them, and they might alone have sufficed to Maintain a sufficient number in the Ministry under that Dispensation, had no more, than were sufficient, been appointed to it. But the *Jewish* Religion consisting in a great part in outward Pomp and Ceremony, a pompous number of attendants in the Ministry of its Worship, beyond what was necessary, was suitable thereto, and of a nature as apt to excite to the awe and reverence of the Divine Majesty (which was the main end of those Ceremonies) as any other part of that Institution. And therefore God having acquired an especial right to the First-born of the Children of *Israel* by saving them in the Land of *Egypt* from the destroying Angel, and to equal their number having instead of them thought fit of his infinite Wisdom to consecrate the whole Tribe of *Levi* to his Service in that manner as I have already said (who were then by a great number, and afterwards grew up

up to be by a much greater, more than were necessary for it, as I have shown) he over and above the Tithes added all the Particulars I have mentioned to make a Maintenance adequate to the number he had chosen, which being peculiar to that Constitution, as well as was that extraordinary number of Ministers serving under it, they all ceased with it, and are not now at all claimed under the Gospel. And therefore allowing this Argument the whole, which it contends for, that is that the Gospel Ministry in this Land is not much above a fourth part of the number, in respect of the whole body of the people, of what the *Levitical* Ministry was among the Children of *Israel*, and that therefore they ought to have but a fourth part for their Maintenance, yet this will not at all affect the Tithes, because over and above these Tithes they had in other particulars above three times as much more, which being now taken away with that Constitution, there remains in the Tithes now paid under the Gospel no more, than

than that fourth part, which this Argument pleads to bring it to. And had the Gospel Ministry in this Land really a fourth part of the *Levitical* Maintenance duly paid them, though their labour and work be above an hundred times as much (for the Ministers of the *Levitical* order were actually on Service only two Days in a Year, as I have shown) I durst promise in their behalf, they shall never desire any more. I wish I could say they have half as much. But

4. Granting all the suppositions of this Argument to be true, that the *Levitical* Dispensation required four times as many in the Ministry, as are now needful under the Christian, that the same Tithes, which are now paid were the whole of their Maintenance without the additions I have mentioned, and that this Maintenance was established wholly in respect to their number, yet still this will be but one reason for the lowering the Maintenance of the Christian Ministry among us against many others, which plead as strongly on the contrary for its ad-

advance. For if the lesser number in the Christian Ministry argues for a lesser Maintenance, the much greater work they undertake, the greater labour they undergo therein, the much higher Qualifications, which they are to be endowed with for the performance of it, the greater dignity and value which their Priesthood is of, and the greater expence, they are at, both in the discharge of their Function, and their Education for it, do every one of them argue as forceably for its encrease, and therefore how much weight soever there should be in this one argument on the one hand for the lowering the Maintenance of the Christian Clergy below the Tenth part paid the *Levitical*, it must necessarily be overbalanced by all these put together on the other.

But it may be objected, that I ought rather to have computed the number of the *Levitical* Ministry, as it was at their first consecration, and I cannot expect, but that this objection should be made, since some do compute the *Levites* then to be the thirteenth part of the

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People, as being the thirteenth Tribe, (dividing that of *Joseph* into *Ephraim* and *Manasses*) and others at least to be the twenty eighth part of them, because in the beginning of the Book of *Numbers* they are reckoned to be twenty two thousand three hundred, and the rest of the People, six hundred and three thousand five hundred and fifty, of which last number the other, when added to it, makes but a twenty eighth part. To this I answer,

1. That the Proportion is not to be stated according to the number of the Tribes, but according to the number of the Persons, which made up the Body of that People. For the Tribe of *Judah* alone was as large as some of the others put together, and therefore had a much larger portion in the distribution of the Land.

2. In stating this proportion as to the number of Persons according to what it was in the time of King *David*, I did it for the advantage of the objection to make it as strong as possible on the side of those, who make it. For whereas in the time of
King

King David I compute the *Levitical* Ministry to be the one hundred eighty seventh part of the People, they were at the time of their first Consecration no more, than the three hundred and second part. I acknowledge the whole Tribe of *Levi* were then numbred to be (q) ^{(q) Num. 3. v. 43.} twenty two thousand three hundred, and the rest of the People to be (r) ^{(r) Num. 1. v. 46.} six hundred and three thousand five hundred and fifty, and consequently according to this computation the *Levites* would be a twenty eighth part of the whole. But there is a great fallacy in making the Computation after this manner. For of the *Levites* were then numbered all the Males (s) ^{(s) Num. 3. v. 40.} from a Month old and upward, but of the rest of the People only such ^{41.} (t) ^{(t) Num. 1. v. 45.} were fit to go forth to War, and of the *Levites*, that were thus numbered, it is afterwards mentioned, that there were no more, than (u) ^{(u) Num. 4. v. 48.} eight thousand four hundred and eighty actually in the Ministry, the rest not being fit for it. If you will make the Calculation exact, you must reckon, that be-

(m) Exod.
12. v. 38.
Numb.
11. v. 4.

sides the Males fit to go forth to War, there were as many, that were unfit, and that the Females were as many as the Males, which will make the whole number of the *Israelites* at that time amount to two Millions four hundred and fourteen thousand two hundred, to which you cannot add less than an hundred thousand for (n) the mix'd multitude, that went up with them, and forty five thousand for the whole Tribe of *Levi*; so the number of the whole Congregation must amount to two Millions five hundred fifty five thousand two hundred, of which the Ministring *Levites* being only eight thousand four hundred and eighty, they made no more than a three hundred and second part of the whole. If it be objected that all the *Levites* ought to be computed into the Number; because all were to be maintained by the Tithes, I answer, for the same reason all, that are of the Families of the Gospel Ministers; that is their Wives; their Children, and Servants ought also to be computed into the number on their

their side, for they also are maintained of the Tithes, that are received, they being intended not only for the Maintenance of their single persons, but of them and their Families. So that putting all together, to compute the proportion of the *Levitical* Ministry to the rest of the People according to what it was at the time of their first Consecration, instead of invalidating any of the arguments on the side of the Evangelical Ministry, which are above mentioned, it will truly render them twice as strong.

And thus far having shown, that the change of the Priesthood doth not alter the case as to the Precedent, which God hath given in the *Mosaical* Law for the payment of Tithes to his Ministers, I am next to make appear, that no such alteration is made by the change of the Country. The Objection, which here lyeth is, that Tithes were given by the *Mosaical* Law only for the Land of *Canaan*, where the Ground usually produced, taking one part of it with another, a return of forty fold, and therefore

no Precedent can be drawn from hence for the payment of the same portion in another Land, where the Ground being less fertile produceth a much lesser return, as particularly not in ours, where the return seldom amounts to above a fourth part as much, because it would be hard, and unequal, that the same portion should be paid, where the return is only Tenfold, as was, where the return was four times as much, and therefore this must make such an alteration in the case, as will make the Precedent not at all applicable to it. And this being the full strength of the objection, it is to be observed, that it extendeth much further, than the former; for whereas that strikes only at the *Mosaical* Precedent, this doth at the *Melchizedekal* also, and therefore if it be of any force doth overthrow the one as well as the other, because the Tithes, which the Scripture mentions to have been paid before the Law, were from the very same Land, out of which they were afterwards paid by the Law. But I answer hereto.

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1. I acknowledge the Land of *Canaan*, although cursed with as great Barrenness at present, was while Inhabited by the Children of *Israel* much more fertile, than is the Land of this Realm, in which we live. I will not deny, but that in *David's* time it might have been at least four times as fertile, because then it maintained as many Inhabitants, as are now in this Land, including *England* and *Wales*, altho' it were not above one fourth part as large. But

2. How great soever this difference was, it makes no alteration in the case as to the Tithes, but the *Mosaical* Law for the payment of them will be as good a Precedent for it in the Barrenest Soil as in the most Fertile. For in the Land of *Canaan* there was stony and barren Ground, as well as fertile and good, some which did not perchance yield a fivefold return, and others that produced a sixtieth or an hundred fold, and yet this Law made no difference between them on this account, but enjoined the payment of the Tenth part out of the

one, as well as the other, and therefore, if this made no alteration in the case in the first making of the Precedent, certainly it can make none in the after application of it.

3. The whole stress of this Objection lies on the different proportion, which is taken to be in the different Countries of *England* and *Canaan* between the Profits and the Charges of the Husbandman. Here in *England* in every Tillage, taking one with another, the charge is one half of the profit, and it is usual in some parts of the Kingdom, as particularly in *Norfolk*, for the owners to let their Lands to halves to their Tenants, that is that the Tenant should have one half of the product for the Charges of the Husbandry, and the owner the other half for the use of his Ground, but in the Land of *Canaan*, where we allow the Ground to have been four times as fertile, there the profit on this bottom must have been eight times as much as the charges, and consequently the charges but one eighth part of the profits. As for

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example, suppose one Bushel of Wheat sown in *England* produceth ten Bushels in the return, one half, that is five Bushels, must go for the charges, and only five Bushels clear profit come to the owner. But in the Land of *Canaan*, allowing it to have been as fertile, as is above mentioned, one Bushel, taking one part of the Land with another, produced forty in the return, so deducting the same allowance for the charges, that is five Bushels, there remain thirty five Bushels clear profit to the owner; which being premised, from hence the stress of the argument is, that it is by no means equal or just, that here with us, where one half of the profit goes out in the charges of the Husbandry, we should pay as much, as where one eighth part only sufficed for it, and therefore what was done in the latter case can be no example or precedent to us to do the same in the former. But all this is built upon these two suppositions, 1. That Tithes are to be paid only of the clear product of the Ground, and not of the product also of Mans

labour employed in the Manuring of it, and 2. That the charge of Sowing a Bushel of Seed in the Land of *Canaan* was exactly the same, and no more, than it is now in *England*. The former of which I utterly deny, and the latter I cannot allow to be undeniably true. And 1. I utterly deny, that Tithes are to be paid only of the clear product of the Ground, and not also of the product of Mans labour employed in the manuring of it. Although now it be the practice with us in setting out of Personal Tithes to separate the charges from the profits, and pay Tithe only of the clear gain, yet there was never any such thing in predial Tithes, but when God enjoyn'd the payment of them on the Children of *Israel*, he enjoyn'd it for the whole product of the Land without making any allowance or deduction for the labour and charges of the Husbandry. For the product of Mans labour employed in the Manuring of the Ground, and the improvements made thereby, being as much Gods blessing, as the product of the Ground

Ground it self abstracted from the improvements, it is equally just and reasonable, that he should have his Tribute from the one, as well as from the other, and therefore his command for the payment of Tithes did with them extend unto both, and so also must the Precedent thereof with us. And 2. Although I cannot as positively deny, that it was not more charge to Sow a Bushel of Seed in the Land of *Canaan*, than it is now in *England*, because we have no positive Record of the matter, yet this is certain, that wherever the Crop doth encrease, there the charges, which relate to the ingathering, threshing, and dressing must encrease with it, and all these went before the payment of Tithes in *Israel* (as hath been afore shown) and therefore if the return in the Land of *Canaan* was four times as much, as now in *England*, the charges as to these particulars must have been four times as much also. And that it might have been so too as to all other particulars, there be very strong reasons to make it more than

than probable. For that Land, which was once so fertile and good, is now on the other hand to as great a degree unfruitful and barren, and if we will seek for a natural reason, how that, which is now so barren, could formerly be so fertile. I know not what else to resolve it into, but the number of the Inhabitants, and the multitude of hands, which were employed to manure and improve it. For by labour and industry a Desert may be made a Garden, and if this be the case (and if the reason were not supernatural, this must be it) the labour and charges might be there, as well as here, one half of the profit, and consequently no difference is to be alleged between the Land of *Canaan*, and the Land of *England*, as to this matter, but that the payment of Tithes may be altogether as just and reasonable in the one, as ever it was in the other.

4. The only end, to which respect is to be had in the allotment of the Maintenance of Gods Ministers, is the support of Gods Worship; and the faithful discharge of
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this duty, which we owe unto him. As far as the ease of the People is consisting with this, I acknowledge, all regard is to be had there-to, and nothing, that is hard or unequal, ought to be put upon them, but all due care is to be taken in every Community, that the burden be not encreased beyond the reason of its end, and that as far as the Nature of the thing will allow, one bear no more of it, than another, in the laying of it upon them. But whatever the nature of the Soil be, Gods Worship must be supported, and no reason from any external circumstances of ours must be allowed to supersede so necessary a duty, but in order hereto Ministers must be maintained as well in a barren Land, as a fertile, and this Maintenance must every where be proportion'd to its end, that is, it must be such, as will best enable them to perform the work of the Ministry, to which they are appointed. And the number of those, who are thus to be maintained for this work in every Community must be according to the number
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of the People in it, to whom they are to Minister. And if this be allowed (which I think every true Christian must allow) a fertile and a barren Land will make no difference in this matter, but there will appear the same reason for the payment of a Tenth in the one, as there is in the other. For the number of the People mostly is in every place according to the product which the Ground brings forth to Maintain them, and therefore if such a quantity of the Fruits and Products of the Earth will maintain such a number of People, and according to the number of the People such a number of persons must be set apart to Minister to them in holy things, and they so maintained in every place, as will best answer the end of their Profession, it will from hence follow, that wherever there is the same quantity of the Fruits and Products of the Earth, the same portion must be set apart for this purpose, and whether more or less labour were employed in the Husbandry, will make no alteration herein. Mens circumstances as to
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this particular will, I confess, be much harder in barren Countries, than in fertile, and so will they also in many other particulars besides, but they must not therefore make reprisals upon God Almighty, because he hath not done better for them, and invade his portion to make themselves amends for it.

5. But allowing both the suppositions, on which this objection goes, to be true, 1. That in the Land of *Canaan* only one eighth part of the profit went to the charges of the Husbandry, and 2. That the Ministers Maintenance is no where to be allotted, but according to the clear profit, which is over and above the Charges, it will from hence follow, I confess, that the Tithe in the Land of *Canaan* was not much above a ninth part of the said clear profit, but it will in *England* be one fifth. But then it must be considered, that the Children of *Israel* in the Land of *Canaan* paid a second Tithe also every year, and many other perquisites and particulars, which are not here claimed, and this will much more than doubly ballance the matter. I

And here I should have done with this Head, but that, from what I last said, another objection lies very obvious to be started. For since the second Tithes were Commanded by Gods Law to *Israel*, as well as the first, and also all those perquisites and other particulars, which I have above mentioned, I cannot expect, but that it will be asked, why is not the Precedent insisted on for these, as well as for the Tithes, which are now receiv'd? And if it be not thought good for these, why is it at all urged for the other? For both equally had the divine appointment for their establishment in *Israel*, and why then may not the divine Precedent be urged for the one, as well as for the other? To this I answer, 1. The second Tithes were not appointed for the Ministers Maintenance, but partly for the relief of the Poor, and partly for the support of the greater Festivals at *Jerusalem*. For (x)

(y) every third year they were to be given to the Poor, but the second Tithe of the other two years (y) were to be carried up to *Jerusalem*, and

(x) Deut.
14. v. 28.

(y) Deut.
c. 12. v.
17. 18, &c.
and chap.
14. v. 22.
23. 24, &c.

and there eaten by the Owners before the Lord, when the People went up thither three times every Year to the greater Festivals, and was the provision, whereby such a multitude of People, as then met together, were fed and provided for during their continuance together at those Solemnities. For in that Mountainous part of the Country, in which *Jerusalem* stood, it was not possible, such a Company could have been maintained together, and in a Festival manner, had not care been taken by this constitution, that those, who went up to *Jerusalem* at those Solemnities, should carry up thither from all parts of the Land their provision with them. And therefore these Tithes in the Original appointment being not at all intended for the Ministers Maintenance can never by any Precedent from hence be claimed for it. 2. Though the Priests and *Levites* had their share of those Tithes (for they (2) all did eat of them, as well as the Owners themselves, during those (2) Deut. Solemnities, and every Man was ^{c. 12. 18.} bound to afford them a portion of ^{and c. 14.} ^{v. 27.} them,

(a) Duet.
14. v. 29.

them, because they had no Inheritance of their own, from whence to be provided) and on the third year also they had their (a) part in them, as well as the Stranger, the Fatherless, and the Widow, yet these as well as the other Perquisites, which I have mentioned, were so peculiar to that Constitution, and so ingrafted into the Ceremonial part of it, that the one could not stand any longer, than did the other, and therefore on the abolition of the one, the other must necessarily be abolish'd also. For the second Tithes being for the support of the *Jewish* Festivals to be eaten at *Jerusalem*, (as hath been already shown) when those Festivals were abolished, the whole end and reason of their establishment ceased, as well as the Law, whereby they were commanded. And those other Perquisites and Particulars, which I have above shown to have belonged to the *Levitical* Ministry, having all accrued to them from the Sacrifices, Oblations, and other Rites and Ceremonies of the *Mosaical* Constitution, in which they officiated, they were consequently so depending

pending from them, that on the failure of the one the other must necessarily fail also, as having no longer any reason or foundation for their further Continuance. And therefore unto us, who have nothing to do with those Festivals, Sacrifices, or Rites, or can without Sin now observe them, neither the one nor the other can be either a Precedent or an Example for us to do thereafter. But as to the first Tithes it is quite otherwise, for they were wholly set apart for the Ministers Maintenance, and had no such dependance on any of the Ceremonies of the Law, or were appointed with any such peculiar relation to any of them, but that they might stand, and be still continued without them, as well as with them. For they were established before the Law, and were no otherwise taken into the Law, than as the ancient portion appointed for the Maintenance of God's Ministers in general, without respect had to any peculiar Dispensation whatever, and therefore, although Commanded by the Law, they had none of the peculiar Con-

stitutions of the Law for the reasons of their appointment, as the second Tithes, and the other Perquisites and particulars abovementioned had, but were established upon the general reason of Maintaining a Ministry for the support of Gods Worship, which is that, which must last through all Dispensations, and equally hold good in one as well as in another. And therefore although the Law of Tithes given the Children of *Israel* was made only for that People, because for them only God framed the Civil Constitution, by which they were to be governed, and consequently on the Dissolution of their State and Policy it hath lost its legal and preceptive force, yet it being built upon a reason, which reacheth all Mankind, the Precedent, and the Example thereof ought to reach all Mankind also, and oblige them in the like case to do thereafter.

And thus far having treated of the Obligation, which ariseth from these Precedents, which God himself hath given us for the consecrating of a tenth part of our substance
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for the maintenance of his Ministers, I shall next proceed to show, on whom this Obligation is principally incumbent; and that must first be on publick States, and secondly on private persons. What God did as founder and Governour of the State of *Israel* in Consecrating by a publick Law the Tenth part for the support of those, who ministred in his worship, is a Precedent to all publick States and Governours of Nations to direct, what they ought to do in this matter; and if they neglect or refuse to do their Duty herein, what *Abraham* and *Jacob* did by divine direction in Tithing their own Estates for this purpose, where there was no publick Law to enjoyne it, shows us, what all private persons ought to do in this case. And these two sorts of Precedents suit the two different States, which the Church of God is liable at any time to be in, and afford directions in each, what is to be done in this matter: For either the Church hath the Civil State incorporated, and united with it, as now in this Kingdom, or else being disjoyned and separated

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from it subsists of it self alone dispersed in private families, as in those Countrys, where the Government is infidel, or heretical. The Precedent, which God gave in establishing Tithes by a publick Law among the people of *Israel*, suits the First of these States, and *Abraham* and *Jacobs* paying them before by his direction, while they served God only in their private families amidst the Idolatrous Inhabitants of Canaan, with whom they sojourned, suits the Second. Soe that although God had not given us a Law for the determinate part, but only in general for a sufficient Maintenance, yet he hath not left us without directions in those two sorts of Precedents, to point out to us, what is fittest to be done, in what State or condition soever he shall be pleased to place us. And therefore according as is the State of the Church, so is the obligation either from the one Precedent, or the other, to do there after.

And 1. The obligation is upon the State, and when that is Christian, as it is bound by the Christian Law

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to provide for the Church, for the Governours thereof having such a Precedent for the doing of it, as that which God himself did, when he governed the State of *Israel*, as this best directs them, what is fittest to be done herein, so doth it put an Obligation upon them to do thereafter. God having at the Creation invested man^(b) with a full property of all things, which he had created in the Earth, without any exception or reserve, and again confirmed it unto him^(c) after the Flood, as hath been afore remarked, he would not afterwards by any Law as Sovereign of the world (for what he did in *Israel* was as immediate National Governour of that People) appoint, what part of it was to be appropriated to the support of his worship (because this would be to entrench upon his own Grant, and again dispose of what he had afore disposed of) but left it to those, to whom he had given the Property of things, to determine the matter according as it should best answer the general Duty of supporting his worship, which is incumbent upon all. And therefore the Governours of

^(b) Gen. C. 1. v. 28.
29.

^(c) Gen. C. 9. v. 2.
3.

publick States having in the first place the Government and distribution of Property, the obligation lyes first upon them, and the Precedent, which God hath given, when he Governed the State of *Israel*, is the surest rule, they can follow to discharge themselves herein in such a manner, as will be best agreeing with his will. For all Governours of Nations being Gods Vicegerents, they are bound in all things to order their Government so as will best agree with the will of him, from whom they receive their Authority. And how can they better know, what is most agreeable with Gods will in this matter, than by what he himself, when he once was pleased to be the immediate Governour of a particular Nation, in the same manner as they are, did determine concerning it. And when the Government of any Christian State hath in conformity to this Precedent established the Tithes in like manner for the maintenance of the Ministry, they are as much due, as if they had been established therein by the command of God himself, as they were
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in *Israel*. For when God did determine that General Law, which he gave unto all from the beginning for the providing of a maintenance for such, as ministred in his worship, to this particular part in the State of *Israel*, he did it only as their immediate civil Governour in that State of Theocracy, which they were under, and consequently executed no other authority in so doing, than that, which every other lawful Civil Governour of a Nation is invested with in the State, which he Governs. And therefore when any such civil Governour, having lawful authority so to do, doth make the like determination, it is altogether as valid. The only difference is God acts infallibly, but man may be deceived. And therefore, where man is the civil Governour, he may either overdoe, and give too much, which will be unequal to the people, or he may underdoe, and give too little, which will make it unequal to the Ministers, and injurious to the service of God Almighty. But when the civil Government of any State takes Gods pattern for their

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direction, and assigneth the same part for this purpose, that he did, when he was the immediate Civil Governour of *Israel*, all this is obviated, and there can be no objection, but that, what is thus settled by Gods Law in general, and according to Gods Precedent in particular, must be that part, which Gods Law obligeth every man to pay.

But 2. where the civil Government, as being disjoyned from the Church, or else ill affected to it, will make no such Law for its support, there every Man is to make it for himself, and what the Law ought to have enjoined, they ought without a Law to do of themselves, and the Examples of *Abraham* and *Jacob*, who where men divinely directed, and divinely inspired, do instruct us, what is to be done in this case. For while they lived among the Heathen Nations of the Land of *Canaan*, they paid Tithes of all, that they had, without any Law for it in the same manner, as afterwards they were enjoyed by the Law of *Moses*, which sufficiently sheweth, that where the Government doth not do what

what it ought, in consecrating this part to Gods Service for the whole Community, it devolves the duty upon every private man to do it for himself; and that, where Gods Precedent, as Governour of the State of *Israel*, doth not influence other Governours to make a Law for it, there what *Abraham* and *Jacob* did by his direction, ought to influence all private persons without a Law to do the same thing.

But still it will be objected against all, that I have said on this head, that God, as the Creator, and supreme Governour of all things, hath an absolute power and Dominion over every mans property, and may require what part of it he pleaseth for his service, without limiting it to a bare sufficiency for the end, or having regard to any former Law concerning it; and that, what he did in the establishing of the Law of Tithes for the support of his Ministers in the State of *Israel* was an Act of his absolute Power and Dominion, which he hath over all things, that he hath created; and that therefore it was never intended to
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be a Precedent for us to act after in this matter, or can be of any use to us in the proportioning of the means to the end, because it was never limited in the original with any regard hereto. To this I answer

1. In the establishing of the Law for the Children of *Israel*, as to the Political part, under which the Law of Tithes is contained, God did not act by his absolute and Supreme Authority, as Sovereign Lord of the Universe, but only as National Governour of that people (as I have already shown) And therefore it being necessary, that with that Character he should take upon him all the Rules and Restrictions, which belong thereto, he acted no otherwise in the framing of that Constitution, than according to those Rules, which all other National Governours are bound to observe, but made all his Laws in an exact conformity to the nature of the thing, the true ends of Government, and the General Laws of God and nature aforegiven, in the same manner as all other National Lawgivers ought to do, only with this difference, that
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whereas human Lawgivers do often fail sometimes in the end, and sometimes in the means, God is always infallible in both. And therefore whatsoever he hath established in any matter is the surest precedent, wherever the Case is the same, for us always to act after.

2. God having at the Creation made an absolute Gift unto man of all, that he had Created on the Earth, without any exception or reserve, as hath been afore taken notice of, he did thereby exclude himself all future acts of his absolute Dominion in reference hereto. It must be acknowledged, that God by his Creation acquired an absolute Dominion both of Property and Empire over all things, that he had made, and he had a full right by virtue thereof to dispose of all persons, and all things, as he should think fit; but having given the Dominion of Property to man, he retained only the Dominion of Empire to himself, and this he never executes in an arbitrary manner. For nothing can be more contrary to the mind of the allwise and Supreme Governour of
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all things, than Arbitrary Government. None of his acts of Sovereignty are ever founded upon mere will and pleasure, but all upon infinite Wisdom and Goodness. And therefore we may be assured, that as he will not again take to himself the property of those things, which he hath invested his Subjects with, so neither will he ever make any Law concerning them, but what shall exactly agree with the justice and reason of the end, that requires it to be made. And therefore supposing the Law of Tithes to have been given the children of *Israel* by God, as absolute Sovereign of the Universe, and not as National Governour of that people, we must suppose no other reason for its establishment, than the justice and necessity of its end (which was the support of Gods worship) and that therefore the portion appointed was of all others in the nature and reason of the thing the most proper and fitting, that could be allotted, for the answering of that end.

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3. That God did not in the making of the Law of Tithes for the Children of *Israel* act by mere will and pleasure in virtue of his absolute Sovereignty, will appear from this, that it was not a new establishment, but the same, which (no doubt by his direction) the world had long before observed. That *Abraham* and *Jacob* paid Tithes the Scriptures tell us. And that the Patriarchs, who were the Fathers of all Nations, did the same, the practice of these Nations descended from them (who all anciently paid Tithes, as hath been afore Observed) doth sufficiently prove. For from whence else should they have such a Uniform usage, but by a Uniform Tradition from them? And the Uniformity, which the Law of Tithes given the Children of *Israel* had herewith, doth I think as clearly show, that there must be a Uniform reason for it. And what else can that be, but the fitness of the portion allotted above all others to answer the end intended?

C H A P. III.

*Of the Original and use of Tithes
in the Christian Church.*

WHAT *Abraham* and *Jacob* did in separating the Tenth part for the support of Gods worship, while they sojourned among the Heathen Nations of the Land of *Canaan*, being that (as I have observed) which best directs us, what to do in this matter, where the Church hath no Law from the State for the same; the Primitive Christians, (as beeing in this case, while the Government, under which they lived, was Heathen) followed this Precedent, and being without any law from the State to provide for the support of Gods worship in the maintenance of those, who ministred in it, each became herein a Law unto themselves, and freely gave of their own accord, what abundantly answered the end intended. For the first Ages of the Church, I confess, we find no mention of
Tithes,

Tithes, because the zeal of Christians was then such, that they gave more in their voluntary Offerings, than (f) the Tithes could amount to. So that out of them there was not only a sufficiency for the Ministers, but over and above a large portion for the Maintenance of the poor also.

For what was paid the Church for several of the first ages after Christ was all brought them by way of offerings, and these were made either at the Altar, or at the Collections, or else occasionally. The Offerings at the Altar (g) were made as often as Christians came thither to communicate. The Offerings at the Collections (h) were made at first every Sunday in conformity to what (i) St. Paul directed the Churches of *Galatia* and *Corinth* to, but afterwards they were reduced to (l) once a Month. The Occasional Offerings were such as were made upon particular Occasions, either as the Ordinary necessities of the Church required, or the more than ordinary Charity and Devotion of well disposed Persons inclined them to give over and above, what was

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4. p. 26.

& p. 39.
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review c.
4. p. 462.

(g) T. ex-
uat. er-
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lib. 4. c.
24 Juſtin
Martyr
Apol. 2.
Cyprian
de Opere
et Elec-
moſynis.
Auguſtin
Serm. de
Tempore

213
(h) Juſtin
Martyr
Apol. 2.
(i) 1 Co-
rinth. c.

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(l) Tertul-
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(m) Cod
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Cypr. Ep.
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usually offered. And by this last way of offering at length Lands and Estates were conferred on Churches, and they became endowed with Revenues over and above their usual Offerings for the maintenance of Gods worship in them. For several left large Legacies, and others in their life time gave as large endowments to them, especially after Constantine had by a Law (m) made Churches to be Corporations capable of holding them. All these Offerings and endowments (except what was taken out of the Offerings at the Altar to make provision for the Celebration of the holy Mysteries) were put into the Common Treasury of the Church under the disposition of the Bishop, out of which in the first place the Ministers were paid every (n) month their Salarys, by which they were maintained, and all other charges of the Church were defrayed; and then what remained over and above was given for the relief of the poor. And thus till towards the fourth Age of the Church all the Necessities of it were fully answered by the voluntary

tary offerings of the faithful, and what was given by them this way, as it did much exceed a tenth of their income, so did it more than suffice, not only for the maintenance of the Ministers, but for all other occasions also. But then this zeal beginning to grow cold, and some offering too little, and others nothing at all, and a question hereon arising, how much it was, that every one was bound to give, it was generally determined among the Fathers and Doctors of this Age in conformity to what (o) *Irenæus*, and (p) *Origen*,
(o) Irenæus speaking of Tithes paid to the Jew.

ish Priesthood, lib. 4. adversus Hæres. c. 34 saith, that we Christians ought not to give less, because we have a greater hope. And in the same Book c. 27. he reckons the Law of Tithes not dissolved by the Gospel, but rather enlarged.

(p) *Origen* in Num. Homil. 11 saith, that the Law of Tithes is to be Observed by us according to the letter, because Christ speaking of the Pharisee's paying Tithes of Mint, Annise, & Cummin saith, this ought to be done, and that although this was said to the Pharisees, yet it must oblige us Christians, because Christ tells us in another place, except your righteousness exceed the righteousness of the Scribes and Pharisees, ye shall not enter into the Kingdom of Heaven. What therefore (saith he) Christ would have done by the Pharisees, must more abundantly would he have fulfilled by his Disciples.

(m) Cod
Theodof.

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the Patriarchs, and afterwards by his expresse Law to *Israel*, all those Offerings ought to be made in the proportion of a Tenth of every mans income for the whole year. And this being what was the practice of all the Heathen world round about them, as to the Gods, which they adored, and what all they, that came into Christianity, whether it were from Gentilisme, or Judaisme, had been afore accustomed to, it was with the more readines Submitted to, and it thenceforth became by the unanimous consent of Christians the received doctrine of the Church, that all men were obliged hereto. And hence it is that Cyprian hath this severe reflection on those of his time, (q) *Domos tunc & fundos venundabant, et pretia Apostolis offerebant, at nunc de patrimonio nec Decimas damus.* In the former part of which passage he magnifies the liberality of the first Christians, that over and above what was required sould all, that they had, and laid the price at the Apostles Feet for to provide for the necessities of the Church; And in the

(q) De Unitate Ecclesiæ.

the latter doth in Comparison hereof condemn the impiety of some in his time, who not only omitted the whole of this voluntary liberality, but also neglected to give even as much as the Tithes, which were necessarily due. And hence also is it, that (r) St Hilary, (s) St Ambrose, (r) Saint Hilary in his Comment upon St Matthew c. 24 tells us, that Christ did therefore tell the Pharisees, that they

ought to pay Tithes according to the Law, because it was useful in order to those things, which were to be settled afterwards by that pattern, which plainly shows his Opinion, that the maintenance of the Ministers of Religion in the Christian Church ought to be settled according to the Precedent, which God gave for it in the Jewish Church.

(s) St Ambrose in several of his Sermons very earnestly presseth the payment of Tithes, as a duty very necessary to be observed by Christians. Sermon. 37. Fer. 2 post Dom. 1. Quadrages. he tells us, that the Lord had commanded, that the Tithes of all our Fruits Cattle &c. be annually paid --- That the nine parts are given unto us, and that if we will not give the tenth part to God, we shall be reduced to a Tenth. And again Sermon. 34. Fer. 2. post Dom. 1. Quadrages. he tells us, that of all the Substance, which God hath given us, he hath reserved a Tenth part to himself, that therefore it is not lawful to retain that, which God hath reserved to himself. That God will take away the nine parts, if we do not give him the Tenth, and that he, who doth not restore, what he hath subtracted of those Tithes, neither fears God, or knows what true repentance meaneth. See also his Sermon on Ascension day, and his comment on St Luke c. 11.

(r) Chrysostom (r) St Chrysostom, St (u) Hierom, and (w) St Austin so earnestly press for speaking of the payment of Tithes, as other

Jewish payment of Tithes (Serm. 4. in Epistolam ad Ephesios) saith. *O what a shame is this, that, what was no great matter among the Jews, should be pretended to be so among Christians. If it were a dangerous thing to fail of giving Tithes then, to be sure it is much more dangerous now. And again (Homil. 43. in 1 Corinth.) speaking of what was to be offered to God by Christians, he saith. I require no great matter, but that as the Jews, who were infants in Religion, and loaden with many sins, did pay, so let us pay, who exp. & Heaven. I speak not this as making a Law, or forbidding to give more, but requiring, that less than a Tenth be not consecrated. This must be Observed by all, that gather any just increase.*

(u) St Hierom in his Second Epistle to Nepotian saith, that, as a Priest and Levite, he lived of Tithes, and serving the Altar was sustained by the Altar. And in his Comment on Malachi Chap. 3. he hath these words. *That, which we have said of Tithes and first Fruits given by the People of old to the Priests and Levites, do you understand also of Christian People, to whom it is commanded, not only to give Tithes, but to sell all, and give to the poor, and follow their Lord and Saviour, which if we will not do, at least let us imitate the beginnings of the Jews giving the poor a part out of the whole, and paying due honour to the Priests and Levites, and he, that doth not do this, manifestly cheats and deceiveth God.*

(w) St Austin is very full for the payment of Tithes in many places of his works. His whole Sermon de Tempore, 219 is to press the payment of them. Wherein he tells us, That God the giver of all requires back a Tenth part from us; That he requires Tithes of whatsoever is our livelihood; and that they are due, as a debt; and that whosoever would procure of God either pardon, or reward, must pay them, and out of the nine parts remaining endeavour to give Alms. And again Hom. 48. *Our forefathers therefore abounded in all plenty, because they gave Tithes to God, and Tribute to Caesar, but since devotion is decreased, exactions are increased. We will not let God have his share in our Tithes, and now all is taken from us, that which Christ receiveth not, the Publican seizeth. And in several other places he speaks to the same purpose for the payment of Tithes, as in Psalm. 146. Enchirid ad Laurentium; De Tempore Serm. 195 et Serm. 205; Ad. Fratres in Brevis Serm. 64. &c.*

Fathers

Fathers also did in that, and following ages. For their meaning was not, that Tithes should be then paid in that Regular manner, as they are now, by setting out for the Minister in every place his Tenth part, when the owners gathered in the other nine, but that all should voluntary pay them in their Offerings at the Church by making them up every year to a tenth part at least of their income. For these Offerings were then instead of Tithes, or rather Tithes were then paid by bringing them to the Ministers by way of Offerings at the Church. And therefore St Cyprian saith, that the Ministers, who had their Stipends divided to them out of these Offerings, (x) did receive them *tanquam Decimas ex fructibus. i. e.* ^{(x) Cypr. Epist. 1. ad Clerum & Plebem Furnitorum.} in lieu or instead of the Tithes of the fruits. And (y) St Austin tells his people, *Majores nostri ideo copiis abundabant, quia Deo Decimas dabant i. e.* ^{(y) Hor. 48.} Our Ancestors did therefore abound in wealth, because they gave Tithes unto God. Which can be understood of no other payment of Tithes, but that, which was made

in their Offerings, because before St *Austin* time, and a long while after there were no other payments ordinarily made by the people to the Church, but in their Offerings only. And therefore in most of those passages, in which the above mentioned Fathers, and other writers of that, and the following age, press the payment of Tithes, they express it by the Phrase of offering Tithes.

(2) Sermon.
34. F. in
tert. post
Dom. 1.
Quinta-
gesimæ.

Thus (2) *Ambrose*, *Quid est fideliter Decimas dare, nisi ut nec pejus, nec melius aliquid Deo offerat aut de grano suo, aut de vino suo, aut de fructibus Arborum, aut de pecoribus, aut de hortis, aut de Negotiis, aut de ipsa venatione sua? i. e. "What is it to give Tithes faithfully, but that no one offer unto God what is worse or less, than the Tithes, either of his Corn, or of his wine, or of the fruits of the Trees, or of his Cattle, or of his Gardens, or of the gain of his Trade, or of his Hunting? And in the same manner St *Austin* in a Sermon to his people a little before Harvest tells them (a) *Jam prope sunt Dies, in quibus Messes colligere acbemus, atque**

(4) Ser-
mon de
Tempo-
re 219.

atque ideo gratias agentes Deo, qui dedit, de offerendis Decimis cogitemus. i. e.

“ Now the season is at hand, when
“ we are to gather in our Harvest;
“ and therefore we ought, giving
“ thanks to God, who hath given
“ us all we have, to think of Of-
“ fering Tithes unto him. And

then a little after he subjoynes,
*Decima Tributa sunt egentium anima-
rum, redde ergo Tributa pauperibus,
offer libamina Sacerdotibus. i. e.*

“ Tithes are the Tribute of the
“ needy souls, give therefore your
“ Tribute to the poor, and make
“ your offerings to the Priests.

Which Testimonies with many o-
thers, that might be produced to
the same purpose, do so plainly
prove Tithes to have been paid in
the offerings of the faithful, and
these offerings to be so made, as to
amount every year to at least a
Tenth part of their income, that Mr

Selden (b) himself doth acknow-
ledge, “ that before the end of the
“ 4th Century it became the usual
“ Phrase to offer Tithes, because
“ they were paid in the Offerings of
“ the faithful, who thought them-
selves

(b) Histo-
ry of
Tithes c.
5. p. 46. p
48. & p
63.

“ selves obliged in the making
“ of these offerings to give every
“ year unto the Churches, of which
“ they were members, Tithes, or
“ greater parts of their Annual en-
“ crease, for the support of Gods
“ worship in them.

But there being no other obligation in these first Ages of the Church to bind them to this payment, but what was put home upon their Consciences by the sense of their Duty, and the received Doctrine of the Church, which was then taught all Christians; As Christianity after the inroads of the Barbarous Nations upon the Roman Empire began to decay, this duty of offering a tenth for the support of Gods worship became neglected, and not so exactly observed as formerly, so that there was a Necessity of having recourse to *Synods*, and Councils, and the Spiritual Sword of their Excommunications, and *Anathema's*, for the reviving, and better enforcing of it in after times.

And accordingly we find *Anno Dom. 585* a Canon was made in the second Council of *Mascon*, for the Churches of France concerning this matter.

matter. The Provincial Council of *Tours*, had eighteen years before sent a Circular Epistle throughout that Province to exhort Men to the due payment of their Tithes. But in this Council of *Mascon*, which was much more General, as being held by (c) all the *Metropolitans* and Bishops of King *Gontrans* Kingdom, was a solemn Decree first made concerning this matter. which is as followeth

“(d) It behoveth us to restore to their primitive State all other particulars of the holy Catholic Faith, which we find to have been corrupted by length of time, least we become Adversaries to our selves, while we neglect to reform, what belongs to our

*revocare, ne nobis simus adversarii, dum ea, quæ cognoscimus ad nostri ordinis qualitatem pertinere, aut non corrigimus, aut, quod nefas est, silentia præterimus. Leges itaque divinæ consulentes Sacerdotibus ac Ministris Ecclesiarum pro Hereditaria portione omni populo præceperunt Decimas fructuum suorum locis Sacris præstare, ut nullo labore impediti horis legitimis spiritualibus possint vacare Ministerijs. Quas leges Christianorum Congeries longis temporibus custodivit intemeratas. Nunc autem paulatim Prævaricatores legum pene Christiani omnes ostenduntur, dum ea, quæ divinitus Sancta sunt, adimplere negligunt. Unde Statuimus, ac discernimus, ut mos antiquus a fidelibus reparetur, & Decimis Ecclesiasticis famulantibus Cere-
monijs populus omnis inferat — Si quis autem contumax nostris Statutis saluberrimis fuerit, a membris Ecclesiæ omni tem-
pore Separetur.*

“ order

(c) *Gregor. Turon. Hist.*

Franc. lib.

8. c. 12. & 20.

(d) *Concil. Matifcon. 2. Can.*

5. *Omnēs igitur reliquas*

Fidei Sanctæ Catho-

licæ causas,

quas tem-

poris longi-

tudine cog-

novimus

deteriora-

tas fuisse,

oportet nos

ad Statum

pristinum

“ order to do, or (which would be
“ wickedness in us) pass it over in
“ silence. The divine Laws taking
“ care of the Priests and Ministers
“ of the Church, that they might
“ have a Portion for their Inheri-
“ tance, have enjoined all People
“ to pay the Tithes of their fruits
“ to Holy Places, that they being
“ hindered by no* other Employ-
“ ment, may at the appointed times
“ duly attend the spiritual duty of
“ their Ministry, which Laws the
“ whole body of Christians have
“ for a long time kept inviolate.
“ But now almost all of them by
“ degrees have shown themselves
“ Prevaricators of these Laws, while
“ they neglect to perform what
“ hath been by God ordained.
“ Wherefore we do appoint, and
“ decree, that the ancient custom be
“ revived among the faithful, and
“ that all the people bring in their
“ Tithes to those, who attend the
“ Divine Offices of the Church. —
“ If any one shall be contumacious
“ to these our most wholsom Orders
“ let him be forever separated from
“ the Communion of the Church.
Which Canon I set down here

at large, because hereby it is manifested, that long before this time it was the ancient custom of Christians to pay Tithes for the support of Gods worship. For we are here told, (e) *Omnes primitias, et Decimas tam de Pecoribus, quam de frugibus, Drues simul et Pauper Ecclesiis* that the whole body of Christians did it for a long time before the making of this Canon, that it was through the corruption of the times, that it was then omitted by many, and that for the reformation hereof, and the reviving again of the Ancient custom, this Canon was made. *suis recte offerant*

And about five years after in the year 590 a like Canon was made by a Council held at Sivil for the Kingdom of Spain, wherein they enjoyn (e) *--- Omnis Rusticus, et Artifex quisque de Negorijs justam Decimationem faciat. Sicut enim Dominus omnia dedit, ita de omnibus Decimam* the payment of Tithes of all Cattle, fruits, and labour of men, and Decree him, who should substract any of those Tithes, to be a Robber of God, *exigit, ut de* and a Thief, and that the Curse, which God inflected upon Cain, who did not divide aright unto God his portion, be heaped upon him.

fructibus agri, ita de nutrimento omni, ut de Apibus, ita de Melle, ut de agnis, ita de Velleribus et Caseis, ut de porcellis, ita de capris, de Bubus, et Equis, ut de Minoribus, ita de Majoribus exigimus, et cæteris. Si quis autem hæc omnia non Decimaverit, Prædo Dei est, et far, et Latro, et maledicta, quæ intulit Dominus Cain non recte dividenti, ei congerantur. Ivo Carnat. P. 2. C. 174

Tithes,

(f) The 14
Canon of
the Council
of Friuli
doth from
the 3d
Chapter of
Malachi,
and several
other
Texts of
Scripture,

And in the year 791 in the Council of Friuli (f) a Canon to the same purpose was made for Italy.

And in England about the middle of the eighth Century the Canons of Egbert Arch-Bishop of York ordain the same thing for that Province. For in them (g) he com-

very pressingly urge the payment of Tithes, which is too long to be here at full inserted.

(g) Egberti Can. 4. & 5. Et Unusquisque sacerdos cunctos sibi pertinentes erudiat, ut sciant qualiter Decimas totius facultatis Ecclesijs divinis debite offerant, ut ipsi sacerdotes a populis suscipiant Decimas, et nomina eorum, quicunque dederint, scripta habeant, et secundum auctoritatem Canonicam coram timentibus dividant, et ad ornamentum Ecclesiæ primam eligant partem, secundam autem ad usum pauperum atque peregrinorum per eorum manus misericorditer cum omni humilitate dispensent, tertiam vero sibi ipsi Sacerdotes reservent. Can. 24. 25. Ut Ecclesiæ antiquitus constituta nec Decimis, nec alia ulla possessione priventur, ut novis Oratorijs tribuantur. Item ut unicuique Ecclesiæ vel una mansa integra absque alio servitio attribuat, et Presbyteri in eis constituti non de Decimis, non de oblationibus fidelium, nec de domibus, neque de Atrijs, vel hortis juxta Ecclesiam positis, neque de præscripta mansa, aliquod servitium faciant præter Ecclesiasticum.

Can. 100 Decimæ sunt Tributa Eccl. sicut et egentium Animarum. O Homo! unde Dominus Decimas expetit? unde vivis, de Militia, de Negotio, de Artificio redde Decimas. Non enim eget Dominus, non præmia postulat, sed honorem. This Egbert was a person of eminent note and learning in his time, and of the Royal blood. For he was Brother to Eadbert King of Northumberland. He was made Arch-Bishop of York in the year 731 and sat there 36 years. He collected those Canons out of the ancient Fathers and Decrees of former Councils to be the rules, whereby he govern'd his Province. Some object against them, as if they were not truly Egberts, but collected by some one else in after times, and falsely ascribed to him, but this objection, I think, is sufficiently answered by what is said to it by Dr Comber in his Book of Tithes, Part 1, c. 8. p. 167, and by B. Stillingfleet in his Treatise of the particular duties of the Parochia, Clergy, p. 184, 185.

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mands the Clergy to instruct the people how to pay their Tithes, and the people accordingly to make due payment of them to the Church for the support of Gods worship therein, and also directs to what Church they should be paid, how they should be distributed, and that they should be free from all secular burdens and services. And the Epistle of Boniface Arch-Bishop of Mentz, which he wrote to Cutbert Arch-Bishop of Canterbury about the same time, plainly proves them to be then paid in the other Province also. For therein he denounceth a commination against those Clergymen, *Qui lac ac lanam ovium Christi oblationibus quotidianis, ac Decimis fidelium suscipiunt, et curam Gregis Domini deponunt* i. e. “ Who receive the
 “ Milk and Fleece of the Sheep of
 “ Christ in the daily offerings and
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Which, since he was an Englishman, and well acquainted with the usages of his Country, he would not have said to an Arch-Bishop of Canterbury in an exhortatory
Epistle

Epistle wrot to him for the reformation of his Province, if there were no such thing as Tithes then paid in it. But within 40 years after i. e. *An. Dom.* 787 the thing was established by a General Council held for the whole Kingdom at *Calchuth*, which in the (h) 17 Ca-

(h) *Spelmanii*

Concil. T.

1. p. 298.

This Council

was held

under the

presidency

of two Car-

dinal Le-

gars sent

from

Rome, and

therefore

was only

an Ecclesi-

astical Sy-

nod, not a

Parlia-

ment,

which might

establish

Ecclesiasti-

cal Con-

stitutions,

but could

not give

civil rights.

non after having cited Several Texts

of Scripture to prove Tithes

to be due subjoynes these words.

Unde cum obtestatione precipimus,

ut omnes studeant de omnibus, quae pos-

sident, Decimas dare, quia speciale

Domini Dei est, et de novem partibus

sibi vivant, et Eleemosynas tribuant.

i. e. " Wherefore with earnest be-

seeching we enioyne, that all do

carefully endeavour to pay Tithes

of all, that they do possess (be-

cause they are the peculiar pro-

perty of the Lord our God) and

maintain themselves, and gives

Alms of the other nine parts.

And from this time nothing is more

Common, than the Decrees of Coun-

cils all Christendom over concer-

ning this matter.

But still as long, as there was no

other power to enforce the duty, but

that

that of Ecclesiastical Canons, both the setting out of Tithes, as well as the payment of them, was soly left to the Consciences of men, and if they despised the Doctrines of their Religion and the Laws of the Church, there was nothing else to oblige them hereto. For hitherto, how much soever Tithes were taught to be due to the Church, the Church had no civil property in them, or was there any Law established by the Civil Authority in any part of Chr stendom, till the 8th Century, for the payment of them. And therefore till then the Church no otherwise claimed them, than as offerings, which were voluntarily to be set apart, and voluntarily given by the people. There were indeed Censure, and *Anathema's* denounced against such, as should neglect to discharge themselves herein, as they ought; but as wickedness encreased, these became despised also, and wholly incapable of being put in execution, and consequently these dues in many places became very lamely paid, and in others wholly omitted, which

I

induced

(i) sic induced a necessity of having re-
providere course to the Civil Authority for
faciatis & the establishment of them, and ac-
ordinare cordingly in the year 764 we find
de verbo a Law made for it by *Pippin* King
nostro, ut of *France* commanding, (i) that e-
unusquis- very one, wheth r they would or
que homo, no, sh ould pay their Tithes. The
aut vellet, next Year after *Aventinus* tells us
aut nollet, a like Law was made by the *Bava-*
Decimum rians enjoyning, (k) that all men
donet. Baluz should pay their Tithes to the
Capit. Tom. Priests. In the Year 779 *Charle-*
1. p. 186. main the Son of *Pippin* confirmed
 (k) Om- the Law of his Father for the King-
nes Deci- dom of France, commanding, (l)
ras tribu- that every one should pay his Tithes,
ent sacr- and that they should be dispensed
dotibus. by the order of the Bishop. And
Aventin. ten Years after, having conquered
Annal. the Saxons, and reduced them to
Solar. lib. receive Christianity, he imposed
 (l) every the same Law upon them, decree-
usque ing, (m) that every one of them,
nam Dei-
non donet,
atque
per Justi-
onem Por-
cessis dis-
persentur.
Baluz
Capit
Tom. 1. p.

197.

(m) Saxones ubi jam armis & fide Domino & Salvatore nostro
 Jesu Christo, & Sacerdotibus ejus, omnium suorum juventorum, &
 mulierum, tot usque cultura ac nutritura Decimas, divites ac pauperes
 leg. liber & servili persolvent. Baluz ibid p. 246. Et in Capitu-
 lo Partibus Spanie c. 17. — Similiter Secundum Dei mandatum
 precipimus, ut Omnes Decima partem Substantie, & laboris sui,
 Ecclesijs, & Sacerdotibus donent, tam Nobiles, quam ingenui,
 milites & Civiles. p. 252. whether

whether rich or poor, noble or ignoble, should pay unto Jesus Christ, and his Ministers the Tithes of all their Cattle, and Fruits, and all other products both of the Earth, and of their labour, and that they should be constrained by Law so to do. And in the Year 794 at (n)

Frankford, and in the Year 804 at

(o) Saltsburg he made the like Law for Germany, that is, that every

man out of the Estate, which he enjoyed, should pay a full Tithe of the income unto the Church. And,

that he himself might give a good Example to others, in the Year 800

he published a Law (p) commanding all his Officers of justice to take particular care within the demesne

Lands of his Crown, that the Tithes of the profits of them be duly

paid to the Churches, to which they had been anciently paid, i. e.

according to the Ecclesiastical order and usage, which was in

practice before Civil Laws were Enacted concerning them. And

the next Year after, i. e. A^d 801, that every one might be informed of his

L. 2

duty

(n) Omnis

homo ex sua

proprietas

legitima

Decimam

ad Ecclesiam

conferat.

Saluz. ibid.

p. 267.

(o) Deci-

mi de ip-

sis rebus,

qui eas pos-

sidere vider-

tur, per-

ferant.

Saluz. ibid.

p. 415.

(p) Volu-

mus, ut Ju-

lices Deci-

mas ex

omni colla-

to tam ple-

niter de-

neant ad Ec-

clesias, que

sunt in

nostris Regi-

bus. Saluz. ibid.

p. 22.

(q) Unus-
quisque
Sacerdos
cunctis sibi
pertinentes
erudit, ut
fiant, qua-
liter Deci-
mus totius
facultatis
Ecclesie
arcinis de-
bita offe-
rent. Baluz
ibid. p.
359.
Here
note that
this Law,
as well
as the
next, that
there fol-
lows, are
the very
same
words
Egberts

Collections Can. 4. 5. For Charlemain having imployed Alchwin in the drawing up of his Capitulars, who was the Scholar of Egbert, he made use of his Masters papers (as appears by an Epistle of his to Charlemain in William of Malmsbury de Gestis Pontificum Anglorum lib. 3.) and out of them transcribed several of his Canons into the French Capitulars. (r) Decima populi in quatuor partes dividitur, prima pars Episcopis, altera aliis Clericis, Tertia pauperibus, quarta in Fabrica Ecclesie. (s) Ibid. 2. 462.

duty concerning this matter, (q) he commands all Ministers to instruct their people, how they ought to pay their Tithes. And he having on his Conquest of the Lombards A^o 774 extended his Dominion into Italy, and there in the Year 800 been declared Roman Emperour of the West, his Laws extended thither also. And that those of Tithes did so, appears by his Capitulars, which he made for the Lombards in the Year 801. For in them (r) he gives direction for the distribution of Tithes, which he would not have done by a Law, had they not been there by a former Law made due. But in the Year 807 he takes particular care, that his Capitulars should be all put in force there, as well as in the other parts of his Empire. For (s) in a

letter

letter to his son *Pippin*, whom he made King of *Italy*, he gives him directions to this purpose, commanding, that not only those Capitular, which relate to the murder of Bishops and Priests, but also *de reliquis quibuslibet causis*. i. e. "Such as
" had been enacted by him in all
" other cause, should be there promulged and observed throughout that whole Kingdom. And although *Charlemain's* Empire did not extend into *Spain*, yet the observance of the same Laws concerning Tithes did; For it was not long e're they received the same civil Sanction there, that they had in all other Countries of the West. And by virtue of these Laws the Ministers of the Gospel thenceforth acquired a Civil right to their Tithes, as well as an Ecclesiastical, so as to be enabled thereby to make the same claim to the Tenth part of every mans annual income, as the possessors themselves could to the other nine. For now they were by the same title of civil right and legal propriety invested in them. And from this time they were no longer

expected till brought to the Church by the way of offerings, but were demanded of right, and gathered from House to House, and men were forced to let them duly out, and pay them fully by the authority of the same Laws, by which they were Est. blished. And this in

*in Epistola-
to Alcuini
et Carolam
magnum
anno 797.* (t) an Epistle of Alcuinus to Char-
lemain is called *plena Decimarum
per singulas Domus exactio*, i. e. "A
full exacting of Tithes from House
to House, which implys the man-
ner, by which in his time they
were paid.

Whether there were any Civil
Laws for this Establiishment of
earlier date, than these I have
mentioned, doth not appear in any
Authentic writer (for that (u)
of Clotair cannot reach the matter)
if there were not, its plain proof,
In additions of Tithes could not have
there Original from Charles Martel.
That he sacriligiouſly took away

*de rebus Ecclesie concedimus, sed ut Alor aut Decimator in
rebus Ecclesie nullus ardeat.* Which is not a giving of Tithes
to the Church, but an Exempting of the Church from
a Tithing of the Tenth part, which was paid the Crown in
the same manner, as often Tithes were here in England.
*in Historia de Maistre de l'Academie Sacre Patrimoine Part 2
lib. 1. c. 1.*

the

the endowments of the Church to give them to his Soldiers, is well known, and on all hands acknowledged. But, that Tithes were a part of them, is not said in any Author of those times. And since he did no more, than give to his Soldiers the right, which the Church had in them before, how could they by this donation acquire a civil right to Tithes, when as yet the Church it self had no civil right in them? All the Obligation, which was upon men to pay them, till they were established by civil laws, was from their Consciences and the orders of the Church. But no one would think himself bound in Conscience in such a Sacrilegious alienation to pay them to *Martell's* Soldiers, or can it be imagined, that the Churches Authority should in this case be interposed to force them to it. Its plain therefore the Church must have had a civil right in Tithes, before a bare alienation of them, could invest in others a civil Right in them. And since the Church had no civil Right in Tithes till after *Martell's* time, it must follow,

that those Alienations, or Infædations of Tithes, which gave unto the Laity in France a civil Right to them, and there still continue, could not have their Original, till after *Martells* time. And indeed the civil Right, which the Clergy in France acquired to their Tithes by the Laws of *Pippin* and *Charlemain*, seem chiefly to have had their Original from that Alienation of Church Lands, which *Martell* was the Author of. For while Churches were endowed with large possessions in Lands, they could out of them make ample provision for their Clergy, without a nice inquiry after the exact payment of their Tithe, but when those endowments were taken away, and the Clergy left only to their Tithes, and offerings, whereon to subsist, it became necessary for the State to help them with civil Laws to enforce the due payment of them. And I doubt not, the consideration of this Sacriledge of *Martells* was that, which chiefly induced *Pippin* his Son, and *Charlemain* his Grandson, to make those Laws to oblige Men to the full payment

payment of their Tithes, that so they might in some measure make amends for it, and thus settle a suitable provision for the support of Gods worship, after those Lands, which were first devoted to it, were otherwise disposed of. And thus far I am willing to allow with the Author of the Treatise of Beneficiary matters, that Tithes had not their Original till about the year 800, that is as to their civil right by secular Laws and coercive Sanctions from the State, but as to their Ecclesiastical usage, I have already shown, how they had their Establishment long before.

C H A P. IV.

Of the Original of the civil Right of Tithes in England, and the several Laws, which were here made for the Establishment of it till the Conquest.

IN the time of *Charlemain* there reigned here in England *Offa* King of *Mercia*, the most potent of all the Saxon Kings of his time in this *Island*, with whom that great Prince having made a particular friendship and alliance, by this means Laws for the establishing of a civil Right to Tithes entered here also. For among other marks of friendship, that passed between them, (a) *Matthew Paris* tells us, he sent him a Collection of *Synodical Epistles* and *Synodical Decrees*,

in his
words
and in
der cetera
collectionis
in figura

*demons-
tratus Rex Carolus Offano Regum occidentalium maximo &
offano quasdam transmissit Epistolas cum quibusdam statutis Syno-
dalis, quasi quadam Catholica fidei rudimenta, ad informandum
cetera aliquorum suorum Prelatorum, quos rudes credidit, & in-
compositos, & ad amicitiam inter ipsos inchoatam feliciter perpetu-
andam, qua & idem Offa, quasi hostium sibi exilius transmissam,
gaudio & reverentia suscepit. In vita Offæ secundi.*

containing

containing the principles of the Catholick Faith, for the better informing of his Prelates for the Government of the Churches committed to their charge, some of whom, he understood, were ignorant and unlearned, which *Offa* (saith the same Author) gladly and thankfully received, as if it had been a gift sent him from Heaven. And among these, no doubt, he sent his own Capitulars, as being very useful for the end above expressed. And in imitation of these about the Year 794 *Offa* (b) made a Law, whereby he gave unto the Church, the Tithes of all his Kingdom, which, (bb) the Historians tell us, was done to expiate for the Death of *Ethelbert* King of the *East Angles*, whom in the year preceding he had caused basely to be Murdered, on his coming to his Court to marry his daughter.

Its true, (c) Sir *Henry Spelman* understands the passage of *Matthew Paris* above recited of a Synodical Book of the second Council of *Nice* concerning the worship of Images, which, (d) *Roger Hoveden*, and (e) *Matthew*

(b) *Bromton col.*
754 *Spelman.*
Concil Anglic Tom. 1.
p. 308.

(bb) *Bromton ibid.*

(c) *Concil Anglic.*
Tom. 1. p.
206.

(d) *Annal*
part. 1.

sub anno
792 p. 405.

Matthew (e) sub
Anno 793.

Mathew of Westminster tell us, *Charlemain* having received from *Constantinople* sent hither to King *Offa*. But how can *Charlemain* be said to send that Council to King *Offa* for the instruction of his Prelats in the Catholick Faith, when he caused it to be condemned (f) in the Council of *Frankford*, as Heretical, and contrary to the Catholick Faith? And how can *Offa* be said to receive it as a gift from Heaven, (g) when he and his Bishops with the rest of the Provinces and Bishops of England, imployed *Alcbryn* to write an Epistle in their names to declare their detestation of it? Its plain therefore, that the *Synodical* Epistles and *Synodical* Decrees, which *Mathew Paris* saith *Charlemain* sent to King *Offa*, could not be this Council, but some other Ecclesiastical Constitutions, which he sent at another time: And what more likely than those I have mentioned?

(f) Concil
Francfort.

(g) R. Ho-
vaden &
M. West-
monast. i-
bid.

That Tithes were afore paid in *England* by way of Offerings according to the ancient usage, and the Decrees of the Church, I have already

ready shown from the Canons of *Egbert*, the Epistle of *Boniface* Archbishop of *Meitz*, and the 17th Canon of the Council of *Calchuth*. But this Law of *Offa* was that, which first gave the Church a civil Right in them in this Land by way of property and inheritance, and enabled the Clergy to gather and recover them, as their legal due, by the coercion of the Civil power.

But this establishment reached no further, than the Kingdom of *Mercia*, over which *Offa* reigned, till *Ethelwulph* about 60 years after enlarged it for the whole Realme of *England*. And because hereon the civil Right of Tithes in this Land had its main foundation, and this matter hath been much perplexed by those, who have wrot of it both *pro & con*, I shall for the clearing of it from all objections, and difficulties raised about it, here give a thorough and full account of the whole matter, and it is as followeth.

Ethelwulph on the Death of King *Egbert* his Father (who first reduced the seven Kingdoms of the Saxons

in.

in this Land into one) having succeeded him, not only in his hereditary Kingdom of the West Saxons, but also in the Monarchy of the whole Land, which he acquired by his conquest, did in the Year 854 in a Parliament for the Kingdom of West-Saxony held at *Wilton* on the Feast of Easter make a Law for the granting of the Tithes of all that Kingdom to the Church, and according to the usage of those times settled it by his Charter, which is as followeth.

Monasticon
Anglic. T.
l. p. 100.
Seldens
History of
Tithes
c. 8. s. 4.
p. 108. &
109.

(h) *Ego Ethelwulf gratia Dei Occidentalium Saxonum Rex in Sancta ac celeberrima Paschali solemnitate pro mea remedio anime, & regni prosperitate, & populi ab omnipotenti Deo mihi collati consilium salubre cum Episcopis, Comitibus, & cunctis Optimatibus meis perfecit, ut Decimam partem Terrarum per Regnum nostrum, non solum Sanctis Ecclesijs darem; verum etiam & ministris nostris in eadem Constitutis in perpetuam libertatem habere concessimus, ita ut talis donatio fixa incommutabilisque permaneat ab omni regali servitio & omnium secularium servitute absoluta, placuit autem*

autem Ælstando Episcopo Shirburnensis Ecclesie, & Swithuno Wentane Ecclesie Episcopo, & Ducibus communiter. Hoc autem fecimus in honorem Domini nostri Jesu Christi, & Beata semper virginis Marie, & omnium Sanctorum, & Paschalis Festi reverentiam, ut Deus omnipotens nobis & nostris posteris propitiari dignetur. Scripta autem est hæc Cartula anno ab Incarnatione Domini nostri Jesu Christi 854, Indictione secunda, die Paschali in Palatio nostro, quod dicitur Wilton. Qui autem augere voluerit nostram Donationem, augeat omnipotens Deus dies ejus prosperos: Si quis vero minuire, vel mutare presumerit, noscat se ante Tribunal Christi redditurum rationem, nisi prius Satisfactionem emendaverit. † Ego Ethelwulf Rex † Ego Ælstan Episcopus † Ego Swithun Episcopus † Ego Wulflaf Abbas † Ego Werferð Abbas † Ego Æthered & Ego Ælfred filij Regis Consensimus. i. c.

“ I Ethelwulf by the Grace of
 “ God King of the West Saxons in
 “ the holy and most solemn Feast of
 “ Easter, for the heal h of my Soul,
 “ and the prosperity of my Kingdom,
 “ and

“ and of all the people by Almighty
“ ty God committed to my charge,
“ have with my Bishops, Earls, and
“ all other my Nobles, brought to
“ pass this wholsom Counsel, that
“ I have not only given the Tenth
“ parts of the Lands through my
“ Kingdom to the holy Churches,
“ but also have granted to our Mi-
“ nisters placed in them to enjoy
“ them in perpetual liberty, so that
“ this grant shall remain firm, and
“ immutable, freed from all Royal
“ Services, and from all other se-
“ cular Service whatsoever. And
“ it hath pleased *Ælstan* Bishop of
“ *Sherborn*, and *Swithun* Bishop
“ of *Winchester*, and the rest of the
“ chief Men to give there consent
“ hereto. This we have done for
“ the Honour of our Lord Jesus
“ Christ, and of the Blessed Virgin
“ Mary, and of all the Saints, and
“ for the reverence, which we bear
“ to the Feast of Easter, that Al-
“ mighty God may vouchsafe to be
“ propitious to us, and our poste-
“ rity. This Charter was writ-
“ ten in the Year of the Incarnati-
“ on of our Lord Jesus Christ 854,
in

in the second Indiction, on
 Easter-Day in our Palace called
 Wilton. Whosoever shall augment
 this our donation, may God
 augment to him his prosperous
 days, but if any one shall presume
 to diminish or change it, let him
 know, that he must give an ac-
 count hereof before the Judg-
 ment seat of Christ, unless in the
 interim he doth make amends by
 giving satisfaction for the same.
 + I Ethelwulf the King + I Al-
 stan Bishop + I Swithun Bishop
 + I Wulfstaf Abbot + I Werferd
 Abbot + I Etheled and I Alferd
 the Kings Sons have given our
 consent hereto.

Immediately after the passing
 of this Grant (i) Ethelwulf took a
 journey of Devotion to Rome, where
 he stayed a whole Year, but in his
 return having married Judith the
 Daughter of Charles the bald, King
 of France, and declared her Queen
 (which was a Title not used to be
 given to the wives of the Saxon
 Kings) this, and his neglecting the
 Government of his Kingdom by so
 long an absence from it, so disgusted

M

the

(i) Chron.
 Sax. sub
 anno 854.
 Asserius in
 vita Alfre-
 di, & in An-
 nalibus sub
 anno 855.
 W. Malmf.
 lib. 2. c. 2.
 H. Hunting-
 don lib 5.
 R. Hoveden
 part. 1. p.
 417 Math.
 Westmo-
 nast. sub
 anno 854.
 Florentius
 wigornien-
 sis sub an-
 no 855.
 Ethelwerd
 lib. 3. c. 3.

“ and of all the people by Almighty
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“ have with my Bishops, Earls, and
“ all other my Nobles, brought to
“ pass this wholsom Counsel, that
“ I have not only given the Tenth
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 “ giving satisfaction for the same.
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 of France, and declared her Queen
 (which was a Title not used to be
 given to the wives of the Saxon
 Kings) this, and his neglecting the
 Government of his Kingdom by so
 long an absence from it, so disgusted

M

the

the Nobility, that a great many of them had formed themselves into a Party under *Ælfstan* Bishop of *Sherborn* for the deposing of him, and the placing of *Erbelbald* his Eldest Son on the Throne in his stead, so that on his return finding all things ready to run into confusion, and civil distractions, for the preventing hereof, and the settling of peace in the Land, he called a Parliament of all *England* to meet at *Winchester* the November following, where the Tributary Kings, and all other the Princes, Bishops, and Nobles of the Land being assembled, after they had settled peace between the Father and the Son, they did by their General consent make (k) the same grant of Tithes for the whole Realm of *England*, that had been made at *Wilton* the Year before for the Province of the *West-Saxony*. And the Charter hereof according to *Ingalph*, who is the ancientest of the *English* Historians, in whom we find it recorded, is as followeth.

(k) In-
supra p.
1.

(i) Domi-
no nostro
Jesu Chrij-
to. W.
Malmf.
M.
Westm.

i Regnante Domino nostro (i) in
perpetuum. Damin nostris temporibus
belloꝝ incendia, & direptiones opum
nostrarum,

nostrarum, nec non & vastantium
 crudelissimas Hostium depredationes,
 barbararum, Paganarumque (2) nati-
 onum multiplices tribulationes ad
 affligendam nos (3) pro peccatis nostris
 usque ad internecionem, tempora cer-
 nimus incumbere periculosa.

Ingulph.

Math. Westm.

2. Quamobrem

2. Quamobrem

ego Ethelwulphus
 Rex West-Saxo-
 num cum Consi-
 lio Episcoporum, ac
 Principum meo-
 rum, consilium sa-
 lubere ac uniforme
 remedium (4) af-
 firmantes (5) con-
 sensimus, ut ali-
 quam portionem
 Terrarum Heredi-
 tariam antea pos-
 sidentibus omnibus
 gradibus, siue fa-
 mulis, & famula-
 bus Dei Deo servi-
 entibus, siue Lai-
 cis (6) miseris, sem-
 per Decimam man-
 sionem, ubi mini-

ego Athelwulphus
 Rex Occidentali-
 um Saxonum cum
 consilio Episcopo-
 rum, ac Princi-
 pum meorum, con-
 siliū salubre, atq;
 uniformē remedi-
 um affirmavi, ut
 aliquam portionem
 Terræ meæ Deo, &
 Beatæ Mariæ, &
 omnibus sanctis,
 jure perpetuo pos-
 sidendam conce-
 dam; Decimam
 scilicet partem
 Terræ meæ, ut sit
 tuta muneribus,
 & libera ab omni-
 bus servitijs secu-

M 2

mun. Malmf.

(2) Gen-
 tium W.
 Malmf.

M.
 Westm.

(3) Verba,
 nos pro pec-
 catis nostris,
 omittuntur apud

W.

Malmf. &

M.

Westm.

(4) Affir-

maui W.

Malmf.

(5) Vox

consensus

omittitur

a W.

Malmf.

(6) Vox

miseris

omittitur

W.

Malmf.

- (7) Tamen
W. *num sit, (7) tum laribus, necnon re-*
Malmf. *Decimam partem galibus Tributis,*
(8) Voces
omnium bo- (8) *omnium bono- majoribus, & mi-*
norum *rum in libertatem noribus, siue Tax-*
omittuntur a W. *perpetuam (9) do- ationibus, quæ nos*
Malmf. *nari (10) Sanctæ Witeredden appel-*
(9) Perdo- *Ecclesiæ dijudica- lamus, sitq; omni-*
nari. W. *vi, ut sit tuta, & um rerum libera,*
Malmf. *munita ab omnibus pro remissione ani-*
(10) Voces *secularibus servi- marum, & pecca-*
Sanctæ Ec- *tutibus, (11) imo torum meorum, ad*
clesiæ omit- *regalibus Tributis, serviendum soli*
tuntur a W. *majoribus, & mi- Deo, siue Expedi-*
Malmf. *noribus, siue Tax- tione, & pontis*
(11) Nec- *ationibus, quæ nos constructione, &*
non W. *dicimus Wynterden, arcis munitione,*
Malmf. *sitque libra omni- ut eo diligentius*
um rerum pro re- pro nobis preces ad
missione animarum, Deum sine cessa-
(12) Voces
& peccato- (12) *& peccatorum tione fundant, quo*
rum nostror- *nostrorum, ad ser- eorum servitutem*
rum omit- *viendum Deo soli, in aliquo leviga-*
tuntur a W. *siue Expeditione, mus.*
Malmf. *& pontis extructi-*
one, & arcis mu-
nitione, ut eo dili-
gentius pro nobis
ad Deum sine ces-
satione preces fun-
dant, quo eorum

*servitutem in ali-
qua parte leviga-
mus.*

3. (13) *Acta sunt hæc apud Win-* (13) *Scripta est au-*
toniam in Ecclesia Sti Petri Anno *tem hæc*
Dominicæ Incarnationis (14) *855,* *donationis*
Indictione (15) *tertia,* (16) *Nonas* *Chartula.*
Novembris, (17) *ante* (18) *majus* *W.*
Altare, pro honore (19) *gloriosæ Virgi-* *Malmf.*
nis & Dei Genetricis Mariæ, Sanctiq; *W.*
Michaelis Archangeli, & Beati Petri (14) *844.*
Apostolorum Principis, necnon & Beati *Malmf.*
Patris nostri Gregorij Papæ. (20) *(15) quar-*
4. (21) *Præsentibus, & subscribenti-* *ta. W.*
bus Archiepiscopis, & Episcopis Angliæ *Malmf.*
Universis, necnon Beorredo Rege Mer- *M.*
ciæ, & Edmundo East-Anglorum Rege, *Westm.*
Abbatum, & Abbatissarum, Ducum, (16) *die*
Comitum, Procerumq; totius Terræ, *Quin-*
aliorumq; fidelium infinita multitu- *to Nonas.*
dine, qui omnes Regium Chirogra- *W.*
phum laudaverunt, Dignitates vero *Malmf.*
sua nomina subscripserunt. (17) *In*
Civitare
Wentana
in Ecclesi
Sui Petri
ante &c.
W.
Malmf.

(18) *Capitale. W. Malmf.* (19) *Sui Michaelis Archangeli,*
& sanctæ Mariæ Reginæ gloriosæ, Dei Genetricis, simulq; & beati
Petri &c. W. Malmf. (20) *Atq; omnium sanctorum. W.*
Malmf. (21) *Tota hæc Periocha omittitur & a W.*
Malmf. & a M. Westm.

5. *Rex vero Ethelwulfus pro firmitate ampliore obtulit hanc Chartulam scriptam super Altare Sti Petri Apostoli; & Episcopi pro fide Dei illam acceperunt, & per omnes Ecclesias pestea transmiserunt in suis Parochijs publicandam. i. e.*

1. ' Our Lord Jesus Christ reigning for ever. Whereas in our time ' we have seen the burnings of ' War, the ravagings of our Wealth, ' as also the cruel depredations (k) ' of Enemies wasting our Land, and ' many tribulations from barbarous ' and Pagan Nations inflicted upon ' us, for the punishing of us for our ' Sins, even almost to our utter destruction, and also very perilous ' times hanging over our heads.
- (k) The Danes about the Year 800 beginning to invade this Land continued for above 200 Years after by their inroads, and depredations, to be a very grievous scourge thereto.
2. ' For this cause I *Ethelwulf*, ' King of the *West-Saxons*, by the ' advice of my Bishops, and other ' chief Men of my Kingdom, have ' resolved on a wholesome and uniform remedy, that is, that I grant ' as an Offering unto God, and the ' blessed Virgin, and all the Saints, ' a certain portion of my Kingdom to ' be held by perpetual right, that ' is

' is to say, the Tenth part thereof,
 ' and that this Tenth part be privi-
 ' ledged from Temporal Duties,
 ' and free from all Secular Services,
 ' and Royal Tributes, as well the
 ' greater, as the lesser, or those Taxes,
 ' which we call (l) *Witerden*, and (l) It is written variously *Witerden*, *Wynterden* and *Witer-eden*. It was a Tax or Royal
 ' that it be free from all things else, and imposed by the Saxon Parliaments, and is com-
 ' for the health of my Soul, and pounded of *Wit*, or *Witan*, which signifies
 ' the pardon of my Sins, to be ap- *majores regni*, &
 ' plied only to the service of God
 ' alone, without being charged to
 ' any (m) Expedition, or to the re-
 ' pair of Bridges, or the fortifying
 ' of Castles, to the end that the
 ' Clergy may with the more dili-
 ' gence pour out their Prayers to
 ' God for us without Ceasing, in
 ' which we do in some part receive
 ' their service.

Reden, which signifies *Concilium*. Cowels Interpreter in
voce Witerden. (m) Expeditions for the defence of the
 Kingdom, the repair of Bridges, and the fortifying of
 Castles, were the *trinita necessitas*, to which all were charg-
 ed, till this grant Excepted the Clergy. From this time no
 one was charged to any Tax for any more, than the
 Nine parts of his Land, the Tenth being hereby given
 the Clergy, and made free from all manner of Taxes, and
 Services whatsoever, till *William* the Conqueror abridged
 them of this privilege, and again subjected them to
 bear their part in the publick burdens of the Kingdom.

3. 'These things were enacted at
' *Winchester* in the Church of St
' *Peter* before the great Altar; in
' the Year of the Incarnation of our
' Lord 855, in the third Indiction,
' on the Nones of *November*, for
' the Honour of the glorious Vir-
' gin and Mother of God St *Mary*,
' and of St *Michael* the Arch-An-
' gel, and of the blessed *Peter*,
' Prince of the Apostles, and also
' of our blessed Father, Pope *Gre-*
' *gory*, and of all the Saints.

(n) In the
Saxon
times it
was usual
for Ab-
besses to
be present
at Coun-
cils, and
Parlia-
ments, as
well as
Abbotts,
and they
then
presided
over Con-
vents of
Men, as
well as
Women.
See Bede
lib. 4. c.
22. & c.
25.
Spelm.
Concil. T.
i. p. 180,
190, 191,
198.

4. 'There were present, and sub-
' scribing hereto all the Arch Bi-
' shops, and Bishops of *England*, as
' also *Bocred* King of *Mercia*, and
' *Edmund* King of the *East-Angles*,
' and also a great Multitude of Ab-
' bots, (n) Abbesses, Dukes, Earls
' and Noblemen of the whole Land,
' as well as of other Christian People,
' who all approved of the Royal
' Charter, but those only, who were
' Persons of Dignity, subscribed
' their Names to it.

5. 'King *Ethelwalf*, for the
' greater firmness of the Grant,
' offered this Charter upon the Al-
' tar

'tar of (o) *St Peter* the Apostle, ^{(o) Of St Peters at Winchester,}
 'and the Bishops on Gods part re-^{and not St Peters at Rome, as}
 'ceived the same of him, and af-^{some}
 'terwards sent it to be published in ^{from}
 'all the Churches throughout their ^{hence}
 'respective Diocesses. ^{say.}

This Charter we find recorded in Three of our Ancient Historians, (p) *Ingulph*, (q) *William of Malmf-* ^{(p) p. 17.}
bury, and (r) *Mathew of Westmin-* ^{(q) De Gestis Regum Anglorum.}
ster, and *Ingulph* being the oldest of ^{lib. 2. c.}
 them, as having been (s) Secretary ^{2.}
 to *William* the First in *Normandy* ^{(r) Sub anno 894.}
 before the Conquest, and after his ^{(s) Ingulph p. 73.}
 coming into *England* made (t) Ab- ^{(t) Ingulph p. 75.}
 bot of *Croyland* by him, I have here
 set it down, as I find it in him. But the second Paragraph being
 depraved by after Transcribers, as
 not to be made Sense of, I have
 joyntly with it added the same Pa-
 ragraph, as it is in *Mathew of West-*
minster, who only of all the three
 hath this part of the Charter in
 such words, as can be made any
 thing of. And that it may be seen
 how all three differ, I have placed
 in the Margin all the various read-
 ings, only in the second Paragraph
 I have not added those of *Mathew of*
West-

Westminster, because that whole Paragraph, as it is in him, being joyntly added, any Reader may compare them, as he shall think fit.

Ingulph relating how King *Ethelwulph* passed this Grant with the full and free consent of all the Prelates and Nobles of *England* assembled together from all the Provinces of the whole Realm, hath

(u) P. 17. these words. (u) *Tunc primo cum Decimis omnium terrarum, ac bonorum aliorum, siue Catallorum universam dotavit Ecclesiam Anglicanam.* i. e. Then first of all he endowed the whole English Church with the Tithes of all Lands, and other Goods, or Chattels. From whence Mr (w)

(w) *Histo-*
ry of
Tithes. l.
8. §. 4. P.
207.

Selden, would infer from the words *Tunc primo*, i. e. Then first of all, that before this time Tithes were not usually paid in *England*. But what hath been above cited out of the Collections of *Egbert*, the Epistle of *Boniface* Arch-Bishop of *Mentz*, and the Canons of the Council of *Calchuth*, plainly shew the contrary. For the Canons of the Church, that enjoyn'd the payment

ment of Tithes upon all Christians, entered hither with Christianity it self among our *Saxon* Ancestors, and as far as these Canons, and the fear of the Church Censures, with which they were enforced, had influence upon the Consciences and Minds of Men, Tithes were paid according to them by way of Offerings, but the Church had then no Power to claim them by way of Property and Civil Right, or any legal coercion to force the payment of them, because as yet there was no Law of the State made to settle them upon them. King *Ethelwulph* by his *Winchester* Charter was the first, that did this for the whole Realm of *England*, and thereby granted to the Clergy of this Land by way of endowment that legal, hereditary, and perpetual Right, and Property in their Tithes, by which they have ever since held them, and whereby they are as fully vested in the Tenth part, as the Owners themselves are in the other Nine. And this is it, which the words of *Ingulph*, *Tunc primo*, do refer to, for he there speaks not of
the

the first paying of Tithes, but of the first legal endowing of the whole Church of England with them, and the granting to the Clergy a Civil Right and Property in them by the Law of the Land, whereas before they had none other, than an Ecclesiastical Right to them by the Canons of the Church.

As to the Difficulties, which arise about this Charter, the first is as to the time of its passing. (x) Some say it was in the Year 854, and (y) others in the Year 855, and some (z) before *Ethelwulph's* going to Rome, and others (a) after his return from thence. To which I answer, that those, who say, that it was in the Year 854, and before *Ethelwulph's* going to Rome, must be understood only of the *Wilton* Grant, and those, who place it in the Year 855, and after *Ethelwulph's* return from Rome, must be understood only of the *Winchester* Grant. And the not distinctly observing these two different Grants, but confounding of them into one, hath been the cause of all the difference, that hath risen among Writers concerning this

(x) Chron.
Sax. W.

Malmf.

M. West-
monast.

(y) Ingulph.

Asserius

Meneven-

sis, Ethel-

werd,

Chron.

Mailros,

Flor. Wi-

gorniensis,

Simeon

Dunel-

mensis.

(z) All

the a-

bove-

mentio-

ed Histo-

rians ex-

cept In-

gulph.

(a) Ingulph

p. 1.

this matter. It is plain the *Winchester* Grant could not be in the Year 854, because *Edmund* King of the *East-Angles* is in the Body of the Charter said to be present at the passing of it, but he was not King of the *East-Angles* (b) till the Year 855. And *Ethelwulph* is said by all those, who place his Journey to *Rome* after his granting of his Charter of Tithes, to have gone thither immediately after it, but this cannot be understood of the *Winchester* Grant. For that was made in the Month of *November*, when the *Alps* beginning to be covered with Snow, make a Journey over them to *Rome* at that time of the Year, and for several Months after, very difficult, if not utterly impracticable, and therefore a Journey thither from hence never used to be undertaken at that time of the Year. But the *Wilton* Grant having been made in *Easter* immediately after, that was the most convenient time of the Year to Travel that way. And therefore those, that say this Journey was after the Grant of his Charter of Tithes

(b) *Assensu*
Annales
sub anno
 855. *ES*
M. Westm.
ES Flor.
Wigorn.
sub eodem
Anno.

Tithes, must be understood of the *Wilton* Grant only. The Solution of the whole therefore is, *Ethelwulph* passed the *Wilton* Grant for Tithes in *Easter Anno Dom. 854.* and immediately after it went to *Rome*, where he tarried a whole Year, and then returning from thence, after some stay in *France* (where he Married the Daughter of King *Charles* the bald) he came into *England* about the latter end of the Summer 855, and in the *November* following having called a Parliament of all *England* to meet at *Winchester*, he there made the general Grant of Tithes for the whole Kingdom in manner, as hath been above-related.

It is further to be observed under this head (and I think it necessary to observe every thing, that may tend to the full clearing of so important a matter) that in *William* of *Malmesbury's* Charter of the *Winchester* Grant, and in that of *Matthew* of *Westminster* also, there is inserted a Clause, which cannot belong to it. It is as followeth.

Pla-

Placuit etiam Episcopis Alstano
Shireburnensis Ecclesie, & Swithuno
Wintoniensis Ecclesie, cum suis Ab-
batibus, & servis Dei, consilium
inire, ut omnes fratres & sorores
nostra ad unamquamq; Ecclesiam om-
ni Hebdomada die Mercurij (hoc est
Weddensday) cantent 50 Psalmos, &
unusquisq; Presbyter duas Missas,
unam pro Rege Ethelwulpho, & ali-
am pro Ducibus ejus huic dono consen-
tientibus, pro Mercede & refugio de-
lictorum suorum, & pro Rege vivente
dicant, Oremus, Deus qui justificas,
&c. pro Ducibus, Prætende Domine,
&c. postquam autem defuncti fue-
rint, pro Rege defuncto singulariter,
& pro Ducibus defunctis communiter,
& hoc sit tam firmiter constitutum
omnibus Christianitatis diebus, sicut
libertas constituta est, quamdiu fides
crescit in Gente Anglorum. i. e.

‘ It hath pleased the Bishops Al-
‘ stan of the Church of Sherborne,
‘ and Swithun of the Church of
‘ Winchester, with their Abbots, and
‘ other Servants of God, to ordain,
‘ that all our (c) Brothers and (c) i. e.
‘ Sisters shall in every Church, to All Priests
‘ w^t . . .

‘ which they belong, once every
‘ week (that is on *Wednesday*) sing
‘ fifty Psalms, and every Presbyter
‘ shall on the same day sing two
‘ Masses, one for King *Ethelwulf*,
‘ and another for his Nobles, who
‘ have been consenting to this
‘ Grant, for the redemption and re-
‘ mission of their Sins. And they
‘ shall say for the King, while he
‘ shall live, the Prayer *Deus qui*
‘ *justificas*, &c. and for the Nobles,
‘ while they shall live, the Prayer,
‘ *Pratende Domine*, &c. But after
‘ they shall be dead, they shall
‘ pray for the dead King in particu-
‘ lar, and for the Nobles being
‘ dead in general. And let this be
‘ constituted for all the Days of
‘ Christianity, as firmly, as this
‘ Grant is constituted, for as long
‘ as the Christian Faith shall flourish
‘ in the *English* Nation.

Had this been decreed in the
Winchester Charter, it would have
been in the Names of all the Arch-
Bishops, and Bishops of *England*,
who were all there at the passing of
it, and all concerned in it. But it
being

being only in the Names of *Alstan* Bishop of *Sherborn*, and *Swithun* Bishop of *Winchester*, (who were Bishops of *West-Saxony*) and their Abbots, it plainly appears from hence, that it was enacted for that particular Kingdom only, and not for the whole Land, and therefore it cannot be a part of the *Winchester* Charter, but must belong to that of *Wilton*, which is subscribed by the same persons, who are mentioned in this Clause, and by them only of the Clergy. For in that time there were no more Bshopricks in the *West-Saxon* part of *England*, than those of *Winchester*, and *Sherborn* only. And therefore whatsoever was enacted in Ecclesiastical matters by the Bishop of these two Sees, and their Abbots, was well enacted for that particular Kingdom, but could not be so for the whole Land, and consequently this proves that Decree, which was enacted by them only, to belong to that particular Kingdom only, and not to the whole Land.

Its true, there were also anciently within the Limits of *West-Sax-*

Saxony, the Bishopricks of Wells for Somersetshire, of Crediton for Devonshire, and of St Germans for Cornwall; but these were not erected till afterwards about (a) the Year 909 by King Edward the Elder. Till that time there were but two Diocesses in all that part of England, that is the Diocesse of Winchester, and the Diocesse of Sherborn. If the Britans of Somersetshire, Devonshire, and Cornwall, had Bishops of their own before this new erection (as it must (e) be acknowledged they had) they were of the British, not of the Saxon Church, and therefore had no place in the Saxon Parliaments, neither did the Saxons of those Counties pay any Subjection to them, but (f) owned only the Bishop of Sherborn for their Pastor. And therefore William of Malmfourey speaking of this new Erection hath these words

(a) Radulphus de Diceto in Abbre-
viationibus
Chronico-
rum sub
A^o 909.
Col. 453.

(e) There
is mention
of a
British Bi-
shoprick
in Somer-
setshire du-
ring the
Reign of
the Saxons
there,
long be-
fore this
new e-
rection,
the See
of which
was first at Congersbury, and after at Wells. Vide *Angliam sacram*. T. 1. p. 553. Usserij *Antiq; Brit. Eccl.* p. 36. (f) W. Malmsh. says, That before this new Erection Somersetshire, Devonshire, and Cornwall, were under the Bishop of Sherborn. *De Gestis Pontificum*. lib. 2. p. 247.

words

words (g) Tunc Rex, & Episcopi (g) W. Eligerunt sibi, suisq; salubre consilium, Malmsh. De Gestis & juxta vocem Dominicam (Messis Regum quidem multa; Operarij autem pauci) Angl. lib. 2. c. 5. p. elegerunt, & constituerunt singulos 47. 48. Episcopos singulis Provincijs Gewis- vide etiam lib. 3. p. 118. & De orum, & quod olim duo habuerunt Epis- Gestis copia, in quinq; diviserunt. i. e. Pontificum. lib. 2. p. 240. & p. 247. Then the King, and the Bishops did take wholsom Counsel for themselves, and their Subjects, and because according to the saying of our Lord, (the Harvest truly is plenteous, but the Labourers are few) they did elect, and appoint for every particular County of West-Saxony a particular Bishop, and thereby divided that Countrey into five Bishopricks, which formerly had but two. And more expresse (h) Mathew of Westminster saith of this same matter. In Concilio hoc salubriter constitutum est, ut pro duobus Episcopis [in Provincia Gewisorum,] quorum unus apud Wintoniam, alter apud Shireburniam sedes habuerunt, quinq; crearentur Antistites, ne Grex Domini absq; cura pastoralis Luporum incursonibus quateretur. i. e. In a Council this was wholesomly ordained, that instead of the two Bishops, which

(g) W. Malmsh. De Gestis Regum Angl. lib. 2. c. 5. p. 47. 48. vide etiam lib. 3. p. 118. & De Gestis Pontificum. lib. 2. p. 240. & p. 247. (h) Sub anno 905. And agreeable hereto is the Register of the Priory of Canterbury in Spelman's Councils. Tom. 1. p. 387. and 10 is also The History of the Bishops of Bath and Wells in Anglia Sacra. Tom. 1. p. 554.

which were formerly in West Saxony, whereof one had his See at Winchester, and the other at Sherborn, there should be five created, least the Flock of the Lord, being left destitute of the pastoral care, should be dissipated by the incursion of the Wolves.

But though the Clause above-mentioned be in William of Malmshury, and Mathew of Westminster, it is not in Ingulphus, who is the ancientest Histori-^{an}, that hath the Winchester Charter. What made the other two insert it there, was their confounding the two Grants into one, which hath caused most of the other error, and mistakes, that have been made about this matter.

The next difficulty that hath been started concerning this Grant is, whether it were made for the Kingdom of West-Saxony only, which was King Ethelwulf's proper inheritance, or else for the whole Land. But this may easily be answered from what hath been already said. The Grant made at Wilton A^o 854 was for the Kingdom of West-Saxony only, but that made at Winchester A^o 855 was

was for all *England*. For (i) *Ingulph* ^{(i) p. 17.}
 tells us, that King *Ethelwulph* did ^{(k) D.}
 then endow with Tithes the whole ^{Gestis Reg-}
English Church, which cannot be ^{gum An-}
 understood otherwise, than of the ^{glorum.}
Church throughout the whole ^{lib. 2. c.}
Realm of England. And (k) *Wili-* ^{2. p. 41.}
am of Malmesbury calls the Charter ^{(l) Ethel-}
 of *Winchester*, *Scriptum Libertatis* ^{werd lib.}
Ecclesiarum, quod Ethelwulphus toti ^{4. c. 2.}
concessit Anglie. i. e. A Charter of ^{Where}
Liberty, which Ethelwulph granted ^{he tell-}
to all England. And Ethelwerd, (l) ^{us, that}
who was of the Seed Royal of King ^{Ethered}
Ethelwulph, as being descended from ^{the Son}
Ethered his fourth Son, and wrote ^{of Ethel-}
 his History (m) about the time of ^{wulf was}
 King *Ethelred*, tells us, that this ^{his Atoms.}
 (m) For

ter of *Otho* the Emperor by *Edgytha* one of the Sisters of
 King *Edmund*, the Grandfather of *Ethelred*, for which
 reason I cannot put the time of this Writer lower, altho
 comparing the Descents he is one degree further re-
 moved from King *Ethered*, than *Ethelred* is from King
Alfred, who was Brother of *Ethelred*. For he saith, that
Ethered was his Atoms. i. e. His Grandfather's great
 Grandfather, whereas *Alfred* was no more than Atoms
 to *Ethelred*. i. e. His Grandfather's Grandfather. If
 this were to guide us to the time of this Author, it would
 make him cotemporary with King *Edward* the Confessor,
 but this would put him too low to be cotemporary wit
Matillis to whom he dedicates his Book. They, who place
 him after the Conquest, are certainly out in their Com-
 putation. It is to be observed, that he ends his History
 at the Coronation of King *Edgar*, who was Cousin-Ge-
 rman to *Matillis*, and therefore it is not likely, that he
 wrot his History much after.

which were formerly in West-Saxony, whereof one had his See at Winchester, and the other at Sherborn, there should be five created, least the Flock of the Lord, being left destitute of the pastoral care, should be dissipated by the incursion of the Wolves.

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 Realm of England. And (k) *Villi-* ^{2. p. 41.}
am of *Malmsbury* calls the Charter ^{(l) Ethel-}
 of *Winchester*, *Scriptum Libertatis* ^{werd lib.}
Ecclesiarum, quod *Ethelwulphus* tota ^{4. c. 2.}
concessit Angliæ. i. e. A Charter of ^{Where}
 Liberty, which *Ethelwulph* granted ^{he tells.}
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 who was of the Seed Royal of King ^{Ethered}
Ethelwulph, as being descended from ^{the Son}
Ethered his fourth Son, and wrote ^{of Ethel-}
 his History (m) about the time of ^{wulf was}
 King *Ethelred*, tells us, that this ^{his Atavus.}
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 at the Coronation of King *Edgar*, who was Cousin-Ger-
 man to *Matildis*, and therefore it is not likely, that he
 wrot his History much after.

(*mm*) lib. 3. c. 3. Tithing was (*mm*) *pro universo Regimine sui Principatus*, which can scarce be understood otherwise, than of his whole Empire, which reached over all *England*. For *Egbert* having by Conquest gained the Sovereignty of the whole Land, King *Ethelwulph* being his Son succeeded him in it. And further the Parliament, which Enacted this endowment at *Winchester*, being assembled there for all *England*, their Grant must be understood to have been for all *England* also, unless there be a limitation in it, but there is no limitation to be found in the Charter, whereby it was enacted, and therefore it must be understood to be in as large a manner, as was the power of those, who made it, and they being the King with all the Arch-Bishops, Bishops, Vice-Roys, Nobles, and People of *England* (as it is in the Charter expressed) as their Power reached unto the whole Land, so must all their Parliamentary Acts too, wheresoever they do not themselves put a limitation to them.

The

The third Difficulty moved concerning this matter is, whether the Grant was made for all the Lands of the Kingdom, or for the Kings demain Lands only, which doubt hath been risen from this, that in the *Winchester* Charter the words of the Grant are, *Decimam partem Terræ meæ*, where by *Terræ meæ* some will understand the Kings own proper Lands only, and not the Lands of his Subjects, whereas *Terræ meæ* in that place is the same with *Regni mei*. i. e. *Of my Kingdom*, and so the word is afterwards used in this very Charter, where he saith, he had the consent *Procerum totius Terræ*, i. e. *Of the Nobles of the whole Land*, that is to say of the whole Kingdom. But the best way of interpreting this Charter is according to (a) *Nir Sel-* (n) *Histo-*
den's Rule by the concurrent Test- ry of
 mony of ancient Writers. And Tithes. 7.
 (o) *Afferius Menevensis*, who lived c. 8. s. 4.
 in King *Ethelwulph's* time, and may (o) *In vita*
 therefore be supposed best to know, *Alfredi*
 what was then don, plainly tells *Pro intro.*
 us, that the Grant of Tithes was not *& in An-*
 only for the Kings demain Lands, *nalibus sub*
 but for all the lands of the whole *Anno 855.*

(p) Sub Kingdom. And (p) Florence of
 anno. 895. Worcester; (q) Simeon of Durham,
 (q) Sub anno. 895. (r) William of Malmsbury, and (s)
 col. 121, Mathew of Westminster all agree
 § 140. with him in the same Testimony.
 (r) De Gestis Re- That, which might give an occasi-
 gum. lib. on to some Writers to confine this
 2. c. 2. Grant of King Ethelwulph's to his
 (s) Sub anno. 854. own demain Lands, was (I suppose)
 another sort of Tithing, which he
 made for the poor a little before his
 Death, and this reached no further
 than his demain Lands only. For
 (i) Asserti- (t) he ordained, that in all his de-
 as in vita main Lands for the number of eve-
 Alfredi, ry ten persons, that lived on them,
 § in An- one poor person should be maintain-
 nalibus sub ed out of those Lands with all things
 anno. 855. necessary for a comfortable sub-
 sistence; during their whole Life.

The fourth Difficulty is started
 by (a) Mr Selden; who would have
 (u) Histo- ry of Tithes. Chap. 8. § 14. this Grant of King Ethelwulph's to
 be no more, than a particular Con-
 secration to the Church for one time
 only, such as was that of Robert
 Earl of Gloucester; who, while he
 was building a Tower near Bristol;
 consecrated the Tenth part of the
 Stones provided for it to the build-
 ing

ing of a Chappel, or that of *Edward the Confessor*, who consecrated the Tenth of his Revenue for one Year to the building of *Westminster-Abbey*. But the Words of the *Wilton*, as well as of the *Winchester* Charter, do plainly express the Grant to be perpetual. For the *Wilton* Charter makes the Grant *in perpetuam libertatem*, and decrees, that it shall remain *fixa & incommutabilis*. i. e. *fixed and immutable*, and ads a Curse against all those, who should alter or diminish it. And the *Winchester* Charter settles it in *Mathew of Westminster's* words, *perpetuo jure possidendam*. i. e. *to be held by a perpetual right*, and in *Ingulph's* and *William of Malmesbury's* words, *Hereditariam, & in perpetuam libertatem*. i. e. *by inheritance, and with perpetual liberty*. And wheresoever there is the inheritance of any thing, if it be in a single person, it is to him and his Heirs, and if in a body Corporate, it is to them, and their successors for ever: And perpetual liberty being added, as an appurtenance, the Tenure, to which it is annexed, must in the construction

struction of all the Law in the World be intended to be perpetual also. And (w) *Afferius Menevensis*, (x) *Florence of Worcester*, and (y) *Simeon of Durham* do all three say, that this Grant was made *semperno Graphio*. i. e. by an Everlasting Charter, which cannot be understood any otherwise, than that the intendment of it was, that what was granted by it, should be forever.

(w) *In vita Alfredi, & in Annali-bus sub anno 855.*
(x) *Sub anno 855.*
(y) *Col. 140.*

From what hath been said, it doth therefore plainly follow, that this Grant of Tithes made by King *Ethelwulph* in his Parliament held at *Winchester*, A^o Dom. 855, after his return from his journey, which he made to *Rome*, was enacted for the whole Realm of *England*, and all the Lands of it, and that these Tithes were then settled, not only on the Clergy then in being, but on them and their successors for ever. And this will more plainly appear by the Laws, which were afterwards made for the further confirming, and executing of it.

For King *Alfred* the Son of *Ethelwulph* about 30 Years afterward having published a body of Laws for the

the well Government of the Realm,
(2) in one of them strictly enjoyns
the payment of these Tithes to
the Church.

And when on the Conversion of
Guthrun the King of the *Danes*
King *Alfred* had made a league with
him, and conferred on him the
Provinces of *Northumberland*, and
East-Anglia, among the Laws,
which were then agreed on for the
well Government of the Land, and
by vertue of that League enjoyned
Guthrun to observe and execute, one
was, (a) That if any Man should sub-
tract his Tithes, and not faithful-
ly and duly pay them to the
Church, if he were a *Dane* he
should be fined in the summ of
Twenty Shillings, and if an *English*-
man in the summ of Thirty Shil-
lings, which was not a new Grant
of Tithes, but the enforcing of that,
which was afore made by King
Ethelwulph, by inflicting a pecunia-
ry penalty upon those, who should
be guilty of the breach of it. And

(2) *Deci-
mas primi-
genia, &
adultæ tuæ*

Deo dato.
Spelm.
Concil.
Tom. 1.1
p. 360. N.
38.

(a) *Si quis*
Decimam
contrate-
neat, red-
dat Lashlite
cum Danis,
& Witam
cum Ang-
lis. Spelm.
ibid p. 377.

Bromton
Col. 830.
where
Lashlite
signifies
a Mulct
of 20 Shil-
lings and
Wita a
Mulct of
30 Shil-
lings. See
Selden of
Tithes, c.
8. §. 3.
Cowels In-
terpreter
in the

words *Lashlite*, and *Wita*, and the *Glossary ad Decem Scrip-
tores Historiæ Anglicanæ* under the same words.

this

this penalty for the non-payment of Tithes being general upon all the subjects of the Land, as well *Danes*, as *English*, it shows, that the Obligation of Law was then general upon all to pay them.

And a little after, this Law was again renewed, and confirmed in (b) the same Terms, between the said *Guthrun*, and *Edward* the Son of King *Alfred* (b) during his Father's life time, which was done for the firmer establishing of it.

must have been done during King Alfred's time, for Guthrun lived 10 years before King Alfred, i. e. A^o Dom. 890, Whereas King Alfred lived till the year 900. Flor. Wigorn. M. Westm. Simeon of Durham, and Eborac, sub anno 890 and 900.

After King *Edward Athelstan* his Son succeeded him in the Kingdom in the Year of our Lord 924, who finding the affairs both of Church and State run much into disorder by reason of the *Danish* War, which had in those times very cruelly harassed this Land, for the re-establishing of them made many good Laws, and among them one was for the re-enforcing the payment of Tithes, which according

ing to (c) *Bromton* is in the Margin, as translated from the Saxon Original is as followeth.

(c) *Ego Athelstanus Rex confilius Wulfhelmi Arch-Episcopi*

mei, & aliorum Episcoporum meorum mando Præpositis meis omnibus in Regno meo, & præcipio in nomine Domini, & Sanctorum omnium, & super amicitiam meam, ut imprimis reddant de meo proprio Decimas Deo, tam in vivente Capitali, quam mortuis frugibus Terræ. Et Episcopi mei similiter faciant de suo proprio, & Aldermanni mei, & Præpositi mei, & volo ut Episcopi, & Præpositi mei hoc judicent omnibus, qui eis parere debent. Et hoc ad Terminum expleant, quem eis ponimus, id est Decollatio S. Johannis Baptiste. Cogitemus, quod Jacobus dixit Deo, Decimas, & Hostias Pacificas offeram tibi. Et Dominus dicit in Evangelio, omni habenti dabitur, & abundabit. Recondendum quoque nobis est, quam terribiliter in libris positum est. Si Decimas dari nolumus, ut auferantur a nobis novem partes, & solummodo Decima relinquatur. Et volo, ut Cyricæ-atta reddantur ad eum locum, cui recte pertinent, & inde gaudeant in ipsis locis, qui hac dignius erga Deum & nos volunt deservire. Hortatur nos sermo divinus aterna cum Terrenis, Cælestia cum caducis promereri. *Bromtoni Chron. Col. 841.*

‘ *Athelstan* the King by the
 ‘ prudent advice of *Wulfhelme* my
 ‘ Arch-Bishop, and my other Bi-
 ‘ shops, do command all my Reves
 ‘ in my Kingdom; and strictly en-
 ‘ joyn them in the Name of God,
 ‘ and of all his Saints, and as they
 ‘ tender my favour, that above all
 ‘ things they take care to pay out
 ‘ of my Lands the just and due
 ‘ Tithes, as well of all Cattel, as of
 ‘ the annual product of the Ground.
 ‘ And

(d) This is not in the Scriptures, but in St Ambrose Sermon 33. Fer. 2. post Dom. 1. Quadrages. (e) What the Cyricsecat was in the Saxon Church, may be best understood from what King Canute writes of it in his Letter from Rome to the Bishops and Nobles of his Realm, wherein he commands, that on St

And moreover let all our Bishops, Earls, and Reves do the same out of their Lands. And let all our Bishops, and Reves, who administer Justice to those, they are over, take care, that they give judgment according hereto. And let all this be done by the day, that we have appointed for it; that is, the Feast of the Decollation of St John the Baptist. Moreover let us consider with our selves, and thoroughly weigh in our minds, what the great Patriarch Jacob said unto God, *My Tithes, and a Peace Offering will I offer unto Thee;* and what the Lord hath said in the Gospel, *To every one, that hath, shall be given, and he shall abound.* And let us also recollect, what is threateningly written in the same Book (d) *If we will not pay our Tithes, the Tenth part shall only be left us, and the other Nine shall be taken from us.* And I will, that the (e) Cyricsecat be paid to that

Martins Day be paid, *Primitia Seminum ad Ecclesiam, sub cuius Parochia quisq; degit, Quae Anglice Cyricsecat nominatur.* W. Malmf. *De Gestis Regum.* lib. 2. c. 11. It was called *Cyricsecat*, quasi *Churchscot*, i. e. The portion, that belonged to the Church, and it was a certain portion of Corn paid out of the first Threshing after Harvest. See Dr Kennet's *Parochial Antiquities.* p. 693. place,

place, to which it doth belong,
that there those may enjoy them,
who by their Ministerial Service
shall best deserve them from God
and us. We are admonished by the
Word of God, that we endeavour
by our Earthly things to gain
Heavenly, and by our fading
things those that will last for e-
ver. *Spelm. Concil. Tom. 1 p. 396.*

This Law was passed in a Parlia-
ment of all *England* assembled at
Grately about the Year 928, and it
was so well received, and approv'd
of, that (f) the Nobles, Gentry,
and Commonalty of *Kent*, in an
Address, which they made to King
Athelstan a little after, did in par-
ticular give him thanks for it, and
expressed therein a great readiness
to observe, and obey the same, and
accordingly engaged themselves so
to do.

And King *Edmund* the Brother of
Athelstan (who succeeded him in the
Kingdom A^o Dom. 940.) did about
the 4th Year of his Reign make a-
nother Law to the same purpose, (g)
commanding every Christian in his
Kingdom Religiously to pay unto
the

(f) *Brom-
ton. Col.
850.*

(g) *Deci-
mas praci-
pimus om-
ni Christi-
ano super
Christiani-
tatem suam
dare.
Bromton
Column.
858. Spel.
Concil.
Tom. 1.
p. 420.*

the Church their Tithes, their
Cyriscceat, and the Plow-Alms.

About 24 Years after, i. e. A^o
Dom. 967, King Edgar the Son of
Edmund made another Law for the
same payment, which was the most
effectual of all, that had been yet
made for this purpose, as carrying
with it the strongest coercion to
force its observance. As it is in
Bromtons Chronicle, (b) it is in the
Margin, as Translated from the Sax-
on Original, it is as followeth.

(b) Hoc est
institutum,
quod Ed-
garus Rex
consilio sa-
pientum su-
orum insti-
tuit, Deo
ad gloriam,
& sibi ad
Regiam
dignita-
tem, &
Genti sue
ad Commo-
dum.

1. Primum est, ut Ecclesia Dei recti sui digna sit, & redda-
tur omnis Decimatio ad matrem Ecclesiam, cui Parochia adjacet,
de Terra Thainorum, & villanorum, sicut aratrum peragrabit.

2. Si quis Thainorum sit, qui in Eado suo Ecclesiam habeat, ubi
Cemiterium sit, det ei tertiam partem Decima sua. Si non sit
ibi Atrium, det ex suis novem partibus Presbytero, quod vult;
& etiam omne Cyriscceatum ad matrem Ecclesiam de omni libera
domo.

3. Et omnis Decimatio juventutis reddita sit ad Pentecosten, &
Terrae frugum ad Equinoctium, & omne Cyriscceatum ad Festum
Sii Martini, per plenam Forisfacturam, quam Fulcralis liber
dicit.

4. Si quis Decimam dare, sicut diximus, noluerit, adeat Prae-
positus Regius, & Episcopi, & sacerdos illius Ecclesiae, & reddant
Ecclesiae, cui pertinebit, Decimam suam, & nonam partem dimit-
tant ei, qui Decimam suam detinuit, & octo partes in duo divi-
dantur, Dimidium Domino, Dimidium Episcopo, sit homo Re-
gis, sive homo Thaini. Bromtoni Chron. Column, 871.

‘ The Laws, which King Edgar
‘ made in full Parliament for the
‘ Glory

‘ Glory of God, the Honour of the
‘ Royal Majesty, and the benefit of
‘ the Commonwealth.

1. ‘ First of all let the Church
‘ enjoy all her Rights and Immuni-
‘ ties, and let every one pay to the
‘ Mother Church, to which he be-
‘ longs, Tithes of all Lands, which
‘ the Plough goes over, whether
‘ they be the Lands of the Gentry,
‘ or the Lands of their Vassals.

2. ‘ If any Lord hath a Church
‘ built on his Charter-hold-Lands,
‘ that hath a Church-yard belong-
‘ ing thereto, with right of Burial,
‘ he may assign a third part of his
‘ Tithes thereto. But if there be
‘ no Church-yard belonging there-
‘ to with right of Burial, the Lord
‘ of the Soil may give unto the Mi-
‘ nister of that Church for his Main-
‘ tenance as much of his Nine parts,
‘ as he shall think fit, but the Tenth
‘ part must be paid to the Mother
‘ Church. And the Church due
‘ called Cyricsceat, which is due
‘ out of every Freemans House,
‘ must also be paid to the Mother
‘ Church.

O

3. ‘ All

(1) i. e.
The Dom-
boc, con-
cerning
which see
Spelmans
Glossary,
and Co-
wels In-
terpreter
under
the word
Domboc,
but espe-
cially Dr
Kennets
Glossary
at the
end of his
Parochial
Antiqui-
ties un-
der the
word
Domesday-
Book.

3. ' All must pay their Tithes of
' the the young of their Cattel be-
' fore *Whitsuntide*, of the Fruits of
' the Earth before the Autumnal
' Equinox, and their Cyricseat on
' *St Martins-Day*. If any one doth
' not pay them, let him undergo
' the penalty prescribed in (1) the
' Judicial Book. And if any one
' shall refuse to pay his Tithes in
' such manner, as we have prescrib'd,
' then let the Kings Reve, and the
' Bishop of the Diocesse, and the
' Minister of the Parish convene to-
' gether, and let them by force
' cause the Tenth part to be paid
' to the Church, to which it was
' due, leaving only the Ninth part
' to the owner. And for the other
' eight parts, the Lord of the Man-
' nor shall have one four parts, and
' the Bishop of the Diocesse the
' other four. And let this be done,
' whether the party offending hold
' of the King, or of any other Lord.

And about the Year of our Lord
1008 King *Etheldred* the Son of
Edgar in a Parliament of all *Erg-*
land held at *Enham* on the Feast of
Pentecost made another Law further

to enforce the payment of all Church dues, (k) which from the (k) Spelm. Concil. Tom. 1. p. 517. Selden of Tithes. c. 8. §. 4. p. 222. Saxon Original is as followeth.

‘ Let every Man duly pay every Year, what is due unto God, the Plow-Alms within Fifteen Days after Easter; the Tithe of the Young Cattel at *Whitsuntide*; the Tithe of the Fruits of the Earth on the Feast of *All-Saints*; and the Church due called *Cyricsecat* on *St Martins-Day*. The Church due for finding of Lights must be paid thrice in every Year. But it is most fitting, that the Fee for Buryal be always paid at the time, when the Grave shall be dug. If any one buryeth a dead body out of the Parish, to which the deceased did belong, he shall nevertheless pay the Fee of Buryal to that Parish Church, where he was, while he lived, a Parishioner.

And about Four Years afterwards at another Parliament held at *Haba* the same King *Etheldred* made another Law to enjoin the same payments, therein confirming, and further enforcing all the Laws of

(1) *Præcipimus, ut
omnis homo
super dilectionem
Dei, &
omnium
Sanctorum
det Cyricf-
ceatum, &
reitam De-
cimam su-
am, sicut
in diebus
Antecesso-
rum nostro-
rum fecit,
quando me-
lius fecit,
hoc est, sicut
ar. trum
peragabit
Decimam
Aeram, Et
omnis con-
suetudo red-
datur super
amicitiam
Dei ad ma-
trem Eccle-
siam, cui
adjacet,
& nemo
auferat,
quod ad
Deum per-
tinet, &
Predecesso-
res nostri
concesserunt.
Bromtoni
Chron.
col. 902.*

his Predecessors, formerly enacted concerning this matter, it is as followeth.

‘We (*l*) command, that every Man for the Love of God and all his Saints shall pay his Cyricfseat, and his full Tithe in the same manner, as it was done in those times of our Predecessors, when it was best don, that is, that he pay for Tithe every Tenth Acre, that the Plow shall go over. And every other customary due must be paid to the Mother Church, to which every Man belongs, for the Love of God. And let no Man take from God, what belongs to God, and which our Predecessors have consecrated to him.

And when King *Canute* the Dane had by Conquest made himself King of *England*, he was so far from abolishing any thing, that his Predecessors the *Saxon* Kings had afore ordained concerning the payment of Tithe, and other dues to the Church, that in the Year 1031, which was the 15th of his Reign, he did in a Letter to his Bishops and Nobles of the Realm written from *Rome* (where he

he went on a Journey of Devotion) strictly command and enjoyn, that whatsoever had by former Laws been established concerning this matter, should be all exactly and faithfully observed throughout the whole Land. His words were as followeth.

‘I (m) do now solemnly charge
‘all my Bishops, and all the (n)
‘Reves of my Kingdom by the
‘Faith, which they ough unto me,
‘and unto God, that before I shall
‘return into England, ye take ef-
‘fectual care, that the dues, which
‘we ough out of all things to the

(m) Nunc
igitur ob-
testor om-
nes Episco-
pos meos,
& Regni
mei Praepo-
sitos, per fi-
(n) dem, quam
mibi debe-
tis, & Deo,
quatenus
faciatis, ut
antequam
in Angliam
veniam,
omnium
Debita,
quæ se-

cundum legem antiquam debemus, sint persoluta, scilicet Eleemosynæ pro Animis, & Decimæ Animalium ipso anno procreatorum; & Denarii, quos Romam ad Sanctum Petrum debetis, sive ex urbibus, sive ex villis; & mediante Augusto Decimæ frugum; & in Festivitate sancti Martini primitiæ seminum ad Ecclesiam, sub cujus Parochia quisq; degit, quæ Anglice Cyricsecat nominatur. Hac & alia, si, cum venero, non erunt persoluta, regia Exactione secundum leges, in quem culpa cadit, destitute absq; venia compārabit. W. Malmsb. De Gestis Regum. lib. 2. c. 11. p. 75. Flor. Wigorniensis sub anno 1031.

(n) He doth here charge his Bishops and Reves, because to them did ordinarily belong the Execution of the Laws in this matter. For the Kings ordinary Officers for the Administration of the Government were then called Reves, if they were for the whole Country, they were called Shire-Reves, from whence our present Sheriffs, and if for Towns, they were called Port-Reves, &c.

‘ Church be fully paid, that is to
‘ say, the *Plow-Alms*, and the Tithe
‘ of young Cattle for the Year, in
‘ which they are procreated ; and
‘ the *Peter-pence*, which we ought un-
‘ to *Rome*, and that this be paid, as
‘ well out of Cities as Villages ; and
‘ by the middle of *August* the First
‘ Fruits of the Seed (which in *Sax-*
‘ *on* is called *Cyricseat*) to the
‘ Church of the Parish, where eve-
‘ ry person dwelleth. And if these
‘ and such like dues be not fully
‘ paid by the time, I shall return,
‘ whoever he be, that shall be found
‘ faulty herein, the Royal Coerci-
‘ on shall force him according to
‘ the Laws strictly and without any
‘ indulgence to pay the same.

In these words reference is made to the ancient Laws, which proves, that by this time the payment of Tithes was grown to be a Veteran and thorough settled Constitution of this Kingdom, and the usage of it had been long enough to make it so, as having from the time of King *Ethelwulf* been now for 177 Years in constant practice, wherever the Wars did not interrupt the execution of it.

And King *Canute* did not rest here, but on his return from *Rome* the next Year after holding his *Christmas* Parliament at *Winchester*, and there having caused a Collection to be made of all the former *Saxon* Law, and enacted them a new for their better observance, among them he reviv'd the Laws of King *Edgar*, and King *Ethelred* for Tithes, and other Church dues, which were the strictest, that were ever made in this Land for the payment of them, and commanded them to be observed for ever. *Bromton's* Copy of

(o) Red-
duntur Deo
debita
Rectitudi-
nes annis
singulis hoc
est Eleemo-
syna Caru-
carum 15
diebus post
Pascha;
Decimæ de
Novellis
Gregibus
in Pente-
costen;
Terreno-
rum fructu-
um in festo
omnium

Sanctorum. Si quis hanc Decimam dare noluerit, sicut omnium nostrorum est commune Institutum, hoc est Decimam Agrum, sicut Aratrum peragrabit, eam Praepositus Regis, & Episcopi, & Domini ipsius Terræ cum Sacerdote, & ingratis auferant, & Ecclesie, cui pertinebit, reddant, nonnam vero partem relinquunt ei, qui Decimam dare noluit, octavas partes reliquas in duo dividant, & sit una medietas Episcopi, alia Terræ Domini, siue sit homo Regis, siue Thaini. Cyrisceat, i. e. Ecclesie Censuræ, in Festo Sui Martini reddatur. Qui sine licentia supertenebit, eum reddat Episcopo, & undecies persolvat, & Regi 120. Solidos. Si quis Thainus in hereditate sua Terram habeat, in qua Cemiterium sit, det ei tertiam partem propriæ Decimæ suæ, si quis Ecclesiam habeat, ubi positivus locus non sit, det ex suis novem partibus Presbytero suo, quod voluit, & eam omnis Cyrisceat ad mitrem Ecclesiam per omnes liberas domos. Et fiat in anno Symbolum luminis, primum in vigilia Paschæ obolus Cere de omni Hydræ, in Festo omnium sanctorum tantundum, tertio tantundum in Festo sanctæ Mariæ Candelarum. Pecuniæ Sepulture, justum est, ut aperta Terra reddatur. Si Corpus aliquod a sua Parochia deferatur in aliam, Pecuniæ tamen Sepulture ejus jure ad eam Ecclesiam pertinebit.

Bromtoni Chron. Col. 920.

his Laws for this purpose is in the Margin, but as Translated from the *Saxon* Original, they are as followeth.

p) From

hence it

seems,

that in-

stead of

the way

of Tithing

by the

Tenth

heap, or

the tenth

Sheaf,

now in

use, the

practice

then was

in those

ancient

Times to

Tithe by

the tenth

Acre,

that is out of every ten Acres, that were plow'd, to set out one Acre for the Church, and so in proportion for every greater or lesser quantity of Land than ten Acres. *In gulphs* Copy of King *Ethelwulphs* Grant titheth by the Tenth Hyde of Land, as this doth by the tenth Acre. No more is to be understood by either, but that according to the quantity of the Land, which is plowed, whether it be more, or whether it be less, the tenth part was at the time of Harvest to set out for the Church. *King Edward the Confessors* Laws Tithe by the tenth Sheaf, and from that time the practice now in use hath continued. But which way soever the Tithing was, the Tithes were always settled here by Law from the time of King *Ethelwulph*.

Let every Man annually render unto God, what is of right due unto him. Let him pay the *Plow-Alms* within 15 days after *Easter*; the Tithe of the young of Cattle at *Whitsuntide*; and the Tithes of the Fruits of the Earth on the solemn Festival of *All-Saints*. But if any one shall refuse to pay his Tithes in such manner, as we have said, that is (p) every Tenth Acre, that is plowed, let the Kings Reve, the Bishop, the Lord of the Mannor, and the Minister

‘ of the Parish convene together,
‘ and by force cause the Tenth part
‘ to be paid to the Church, to which
‘ it is due, leaving the Ninth part
‘ only to the owner. And as to
‘ the other Eight parts, the Lord of
‘ the Mannor shall have one Four
‘ parts, and the Bishop of the Dio-
‘ cesse the other Four. And this
‘ shall be done, whether the Offen-
‘ der holds of the King, or of any
‘ other Lord. Let the Church
‘ due called *Cyricseat* be paid on St
‘ *Martins* Day. If any one shall
‘ delay to pay it, let him render
‘ to the Bishop Eleven Fold, and al-
‘ so pay a Fine to the King of one
‘ hundred and twenty Shillings. If
‘ a Lord hath a Church built on his
‘ Charter-hold-Lands, which hath
‘ a Church-yard belonging thereto
‘ with right of Sepulture, he may
‘ assign the third part of his Tithes
‘ to that Church. But if that
‘ Church hath not a Church-yard
‘ belonging thereto with right of
‘ Sepulture, then let the Lord of
‘ the Soil give to the Minister of
‘ that Church for his Maintenance
‘ as much of his Nine parts, as he
shall

' shall think fit, but the Tenth must
 ' be paid to the Mother Church. And
 ' the Church due, called Cyricseat,
 ' must also for every Freemans
 ' House be paid to the Mother
 ' Church. Thrice every Year a cer-
 ' tain sum of Money must be paid
 ' for the maintaining of Lights at
 ' the Parish Church, that is to say
 ' for every Hide of Land an Half-
 ' penny at *Easter*, another Half-
 ' penny at the solemn Festival of
 ' *All-Saints*, and the like must be
 ' done at the Festival of the Purifi-
 ' cation of *St Mary*. And it is fit-
 ' ting, that at the digging of every
 ' Grave the Burial Fee should forth-
 ' with be paid to the Minister. And
 ' if any Man shall bury his dead out
 ' of the Parish, of which he was an
 ' Inhabitant, the Fee of the Burial
 ' must notwithstanding be paid to
 ' the Church, to which of right it
 ' belongs. (q)

(q) *Spelm.*
Concil.
Tom. 1.
p. 544.
Lombard
Edif. Can-
on. p. 101.

These were the Laws, which were
 here enacted for the settling of Tithes
 for the Maintenance of the Clergy
 by our *Saxon* Ancestors before the
 Conquest. And it is scarce possible
 any Laws could be more solemnly or
 more

more fully made for the granting and establishing of a firm and perpetual right, than these were, or enforced with a more effectual penalty to make them observed, he, that detained the Tenth part, being to forfeit the other Nine, and the forfeiture to be divided among them, who were appointed to execute the Law, for the Encouragement of their activity and diligence herein. This at first was only subjoyned by *Athelstan* (as may be above seen) after his Law for Tithes, as a threat out of *St Ambrose* of God's Curse upon the other Nine parts, if Men did not truly pay the Tenth to his Ministers, intending no more thereby, than by the fear of that Curse to induce his Subjects with the more exactness to observe the Law, which he enjoyned. But King *Edgar* from hence taking the hint made it the legal penalty of that Law, which he after enacted for this matter, and to render that Law the more effectual really decreed therein, what was only threatned as a Curse from God before; That those, who would not pay the Tenth part according to
the

the Justice of that Law, should by the severity of its Sanction truly forfeit the other Nine in such manner as is therein expressed. And King *Canute* did confirm, and again enact the same.

And altho King *Edward the Confessor* did not make any new Laws for Tithes, which we can find an account of, yet having digested all the Laws of his Predecessors into one common Body of Law he took that care in it of this right of the Church, as was fully agreeable to the zeal and piety of so Religious a Prince, as will be seen in the next Chapter, where we treat of the Confirmation of his Laws by King *William the Conqueror*.

But Mr *Selden*, although he acknowledgeth all these Laws for Tithes to have been made, and sets them down in his History of Tithes with exactness and fidelity enough, yet to dash what arguments may be brought from hence for their ancient and general Establishment in this Land, and to make way thereby for his wild Chimæra of Arbitrary Consecrations, says they were
little

little obey'd, but he says this, as he doth many things else in that book, without any manner of proof, neither can there any be produced for it.

But because some may perchance ask the question ; If these Laws were punctually observed, whence came it to pass, that they were so often repeated, and almost in every Reign enacted over again ? And may from hence argue, that the non observance of them was the only cause hereof, as if there could be nothing else, that might make it necessary for this to be so often done. But if we will consider, what was the State of those times, this will thoroughly clear this matter. For from the time of King *Ethelwulph*, who first made the Grant of Tithes, to the last renewal of it by King *Canute* the Kingdom underwent terrible Convulsions by reason of the *Danish* War, which miserably harassed the Land for full 200 Years, and oftentimes a great part of it, and sometimes in a manner the whole was in the Enemies hands, and as long as it was so, all Laws,
and

the Justice of that Law, should by the severity of its Sanction truly forfeit the other Nine in such manner as is therein expressed. And King *Canute* did confirm, and again enact the same.

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little

little obey'd, but he says this, as he doth many things else in that book, without any manner of proof, neither can there any be produced for it.

But because some may perchance ask the question ; If these Laws were punctually observed, whence came it to pass, that they were so often repeated, and almost in every Reign enacted over again ? And may from hence argue, that the non observance of them was the only cause hereof, as if there could be nothing else, that might make it necessary for this to be so often done. But if we will consider, what was the State of those times, this will thoroughly clear this matter. For from the time of King *Ethelwulph*, who first made the Grant of Tithes, to the last renewal of it by King *Canute* the Kingdom underwent terrible Convulsions by reason of the *Danish* War, which miserably harassed the Land for full 200 Years, and oftentimes a great part of it, and sometimes in a manner the whole was in the Enemies hands, and as long as it was so, all Laws,
and

and Religion were suppressed in those quarters. And therefore (w) In the Preface to the 8th Part of his Reports. See also his Preface to the 2d Part of his Institutes, where he tells us, That the two Charters, Magna Charta, and Charta de Foresta, have been confirmed, established, and commanded to be put in Execution by 32 several Acts of Parliament in all. See also Spelman in his Glossary, sub verbis, Magna Charta. p. 379. col. 1.

whenever the English recovered themselves again, and expelled the Enemy (as they often did) there was a necessity of a new publication of their Laws, and also of new additions to them for the restoring of Peace, and the bringing of things again into order, and due regulation of Government. And whenever this was done, it is to be observed, that among those Laws that of Tithes was always one, which plainly shows, how much the payment of them was then grown into the fixed usage, and Constitution of the Kingdom. But altho the non usage of Laws may be sometimes the reason of their being enacted over again for their revival, and the bringing of them anew into practice, yet this is not always the case, for if so, it would put Magna Charta itself out of usage too. For that was enacted over and over again by above Thirty several Parliaments, as Coke tells us, his Words are. (w) The Great Charters made by King John do in effect agree with

with *Magna Charta*, and *Charta de Foresta* established and confirmed by the Great Charter made in the Ninth of King Henry the 3d, which for their Excellency have since that time been confirmed, and commanded to be put in Execution by the Wisdom, and Authority of 30 several Parliaments, and above. And yet the Laws of this Charter were most sacredly observed all this time, and so might the old *Saxon* Laws too, would the times have permitted, notwithstanding their having been so frequently renewed. Coke tells us, that it was for their excellency only, that the Laws of *Magna Charta* were so often renewed. And why might not this be the cause of the frequent renewals of those *Saxon* Laws also, which we now treat of? If we consider the nature of them, and how excellently they were framed for the good of the Kingdom both as to Church and State, there will appear better reason to ascribe it to this, than any thing else.

C H A P.

C H A P. V.

*Of the settling of the Civil Right
of Tithes here in England
after the Conquest.*

(x) This
appears
by a Mul-
titude of
passages
in *Orderi-
cus Vitalis*.

Although Conquests made by a Foreign Nation use to overthrow all former Rights (and scarce ever any Conquest more did so, than that of the *Normans* in this Land) yet the right of Tithes here still continued untouched, and upon as firm a foundation after that Revolution, as it did before. For the Conquerors being Christians (though very barbarous ones) and used to (x) the payment of Tithes in their own Country before they came hither, made no difficulty to continue this usage (as to the paying of them) upon the same foot, as they found it. And therefore *William* the Conqueror in the Fourth Year of his Reign having called a Parliament of Twelve Men, chosen out of every County, to represent unto him a Collection of the Laws,
by

by which the Realm was govern'd in King *Edward the Confessors* Reign, and having enacted and published the said Collection, as a body of the fundamental Laws, by which the Government was for the future to be administred, among these Laws there is one for Tithes, which is very expresse both for the establishing of their Right, and for the enforcing of the payment of them through the whole Realm. It (a) is as followeth.

De omni annona decima Garba Deo debita est, & ideo reddenda, & si quis Gregem equarum habuerit, Pul- lum reddat decimum; qui unam tantum vel duas habuerit, de singulis pul- lis singulos Denarios. Similiter qui vaccas plures habuerit, decimam vitulum; qui unam vel duas, de vitulis singulis Obolos singulos; Et qui Caseum fecerit, det Den decimum; si vero non fecerit, lic decimo die. Similiter agnum decimum, vellus decimum; Caseum decimum, butyrum decimum, Porcellum decimum. De Apibus vero similiter Decima commoti; Quin & de Bosco, de Prato, & Aquas, & Molendinis, Parris, Vivarijs, Piscarijs, Virgulis, & Hortis, & Ne-

(a) R.

Hoveden
in posteria-

re parte

Annalium
p. 602.

Henr.

Knighton.
lib. 2. c.

4. Spel-

manni Con-
cil. Tom.

1. p. 620.

Wheloci
EditioArchaiono-
mia Lam-bardi p.
139.

gotiationibus, & omnibus rebus, quas dederit Dominus, decima pars ei reddenda est, qui novem partes simul cum decima largitur. Qui eam detinuerit per justitiam Episcopi & Regis, si necesse fuerit, ad redditionem arguatur. Hæc enim prædicavit beatus Augustinus, & concessa sunt a Rege, Baronibus, & Populo; sed postea instinctu Diaboli multi eam detinuerunt, & Sacerdotes locupletes negligentes non curabant inire laborem ad perquirendas eas, eo quod sufficienter habebant sue necessaria vitæ. Multis enim in locis modo sunt tres vel quatuor Ecclesie, ubi tunc temporis una tantum erat, & sic ceperunt diminui. i. e.

‘Of all Corn the Tenth Sheaf is
 ‘due to God, and therefore is to be
 ‘paid unto him. If any one shall
 ‘have an Herd of Mares, let him
 ‘pay the Tenth Colt, but if he
 ‘have only one or two Mares, let
 ‘him pay a Penny for every Colt,
 ‘which he shall have of them. In
 ‘like manner, if he shall have ma-
 ‘ny Cows, he shall pay the Tenth
 ‘Calf; if he shall have but one or
 ‘two Cows, then he shall pay an
 ‘Half-penny for every Calf. And
 ‘he who shall make Cheese must
 ‘give

‘ give unto God the Tenth Cheefe;
‘ but he, that shall make none, must
‘ give the Milk of every Tenth Day,
‘ and so likewise must be paid the
‘ Tenth Lamb, the Tenth Fleece,
‘ the Tenth part of the Butter, and
‘ the Tenth Pig. And so in like
‘ manner of the Bees the Tenth
‘ part of the Profit. And so like-
‘ wise of Woods, of Meadows, of
‘ Waters and Mills, of Parks, of
‘ Ponds, of Fisheries, of Cops, of
‘ Orchards, and Gardens, and of
‘ Trade, and of all things, which the
‘ Lord shall give, the Tenth part is
‘ to be rendred to him, who giveth
‘ unto us the other Nine parts with
‘ that Tenth. Whosoever shall de-
‘ tain this Tenth part, shall by the
‘ Justice of the Bilhop and the King
‘ be forced to the payment of it, if
‘ need shall be. For these Tithes
‘ St *Augustin* hath preached, and
‘ they have been granted by the
‘ King, Nobles, and People of the
‘ Land; but afterwards by the in-
‘ stinct of the Devil many have de-
‘ tained them. And rich Priests
‘ being negligent did not cue to
‘ take pains to recover them, be-

‘cause they were sufficiently supplied with the necessaries of Life. For in many places, where are now three or four Churches, there in former times was but one, and so the Tithes began to be diminished.

These Laws were called King Edward's Laws, not that he made them (for they were most of them, if not all, in use before his Reign) but because he collected them into

one Body, and during his Reign very happily governed the Kingdom by them, and therefore the Title of them is (b) *Leges Sancti Edwardi, quas in Anglia tenuit.* i. e. The Laws of King Edward, which he observed in England, not which he made. And William of Malmesbury tells us of them, that they were called the Laws of King Edward (c) *Non quod ille Statuerit, sed quod observaverit.* i. e. Not that he ordained, but that he observed them. For on his coming to Reign in this Kingdom (d) he found Three different Laws had obtained in the different parts of it, that is 1. The West-Saxon Law, called the *West-Saxen-Laws*,

(b) *Spelmanni Concil. Tom. 1. p. 619.*

(c) *De Gestis Regum. lib. 2. c. 11. p. 75.*

(d) *Bromton Cel. 956.*

Polychronicon. lib. 1. c. de

Legibus

Legibus

Legibus

Ox. Thom.

Rulborn

Historia

Wintoniensis in Anglia

Scot. p. 60.

Laga, which was in use in all those parts of *England* which ly West of the *Thames*; 2. The *Mercian Law*, called the *Mercen-Laga*, which was observed in *Gloucestershire*, *Worcestershire*, *Herefordshire*, *Shropshire*, *Cheshire*, *Staffordshire*, *Warwickshire*, and *Oxfordshire*; and 3. The *Danish Law*, called *Dene-Laga*, which through the prevailing power of the *Danish* Invaders had been received in all the other parts of the Land. Which different Laws causing great distractions in the Government, and daily creating many difficulties in the administration of it, the King for the remedy hereof, soon as he was well settled in his Throne, by the advice of his Parliament (e) caused a Collection to be made out of these particular Laws, and other General Laws made by his Predecessors since the Union, of all such, as it was thought would prove most useful for the Realm, and made of them one uniform body of Law for the whole Land, and abolishing all others ordained, that the Government should be administered by them

(e) *Broomton. ibid.*
Polychron. ibid.
Rulborn. ibid.
11. Knighton. lib. 1. c. 25. R. Hoveden. p. 603.
Speimanni Gloss. sub vocibus Lex Angliæ
in Britan-

only throughout all parts of the Kingdom, whereby he perfected the Union of the Monarchy, and brought all things therein to that due and regular order of Justice, as made his Reign easie and peaceable to him all his life after. For altho' before the Confessors Reign from the first uniting of all the *Saxon* Kingdoms into one, many

(f) General Laws had been here made for the whole Land, and thereby it had been endeavoured to bring the whole Realm to be uniformly governed by the same rules of Justice, yet by reason of the distractions, which were frequently occasioned during all that time, (*i. e.* for the term of 200 years together) by the in-roads and invasions, which the *Danes* were continually making upon the Land, this could not be effected, till that after the Death of King *Harde Canute* all the *Danes* being expelled the Land the peaceable Reign of King *Edward the Confessor* succeeded, by whom it was thoroughly bought to pass, and the Kingdom reaped the benefit of it all his Reign. But the next Year after his death the

As by
Alfred, A-
theftan,
and *Edgar*
especial-
ly. See
theirs,
and other
the *Saxon*
Kings
Laws
from *Al-*
fred to *Ed-*
ward the
Confessor in
Lambard's
Archai-
onomia,
and *Spel-*
mans first
Tracts of
the *Eng-*
lish Coun-
cils, and
in *Brom-*
ton's Chro-
nicle.

Nor:

Normans having Conquered this Realm, a thorough abolition of the whole had like to have succeeded. For King *William the Conqueror* (g)^(g) *R. Hoveden.* taking a liking to the *Danish* and *Norwegian* Laws before all others, meerly out of a phansy, because he and his *Normans* were descended from those people (for their Ancestors, who first planted in *Normandy* under *Rollo* their first Duke, came from *Denmark* and *Norway*, and from hence they had the Name of *Normans*, i. e. *North-men*) purposed again to have restored those Laws in this Land, and to have made them the standing Law whereby it was for the future to have been governed. And accordingly he caused a body of them to be collected, and went so far, as to publish a Proclamation for the observing of them throughout the Realm. But the English generally resenting it, as a thing, which would be grievous and oppressive to them, addressed unto him with a very earnest Petition not to impose upon them Laws, which they were not acquainted with, but that he would govern them by the Laws of King *Edward*,

by whose gift he held the Crown (for by this Title he pretended to claim it.) For these, they said, they had been accustomed to, and upon Trval and Experience had found to be most beneficial for the good of the Realm. And they having by their importunity at length gained the King, altho not without great difficulty, to hearken to them, he called that extraordinary Parliament, I have mentioned, of Twelve Men out of every County to make a Collection of the said Laws of King *Edward*, and having Sworn them all in his presence to make a true and faithful representation of them, without adding, diminishing, or changing any thing in them, he appointed *Aldred* Archbishop of *York*, and *Hugh* Bishop of *London*, to write them down from their Mouths, and on their having perfected the said Collection to present it unto him, which having been accordingly done, they were examined in the next meeting of the Great Men and Barons of the Land (which was then the Ordinary Parliament of the Realm) and there after

ter (b) such additions, and emenda-
 tions, as were thought proper to
 be made in them, they were by (i)
 the advice of the said Parliament
 confirm'd, ratified, and a new en-
 acted to be the standing Law of the
 Land. And this was (k) the first
Magna Charta, which was granted
 the people of *England*, and was in
 truth the Original Contract of the
Norman Government, as contain-
 ing the Term, on which the peo-
 ple of *England* submitted to King
William, as their Sovereign, and
 he undertook the Protection of
 them, as his Liege people. And
 from this body of Law the Com-
 mon Law of *England*, both as to
 Name and thing, had its Original.

(b) King
William
 the Con-
 queror
 in a body
 of Laws
 after-
 wards
 published
 (a Copy
 of which
 still re-
 mains in
 the Red
 Book in
 the Ex-
 chequer)
 Com-
 mands,
 ut omnes
 habeant &
 teneant
 Leges Ed-
 wardi Re-
 gis in om-
 nibus rebus
 ad iustis
 his, quas
 Statui-

mus ad utilitatem Anglorum. Selden in *Notis ad Eadmerum*.
 p. 192. *Twissden Leges Willielmi Conquestoris & Henrici*
filij ejus. p. 172. N. 63. And King Henry the I. in his
 Charter restores to the English, *Legem Regis Edwardi cum*
illis emendationibus, quibus eam pater ejus emendavit. M.
Paris. p. 47. *Twissden* p. 176. *Bromton Col.* 998. lin. 2. *Flor.*
Wigorniensis sub anno 1100, R. *Hoveden* sub initio vite Hen-
 ricus primi. p. 468.

(i) King Henry the firsts Charter says, this was done
consilio Baronum. See M. Paris and Twissden in the places
 last above cited.

(k) Coke's Preface to the 8th part of his Reports.

For

For from the first collecting and enacting of it by King *Edward the Confessor* it being made the Common rule of Justice and Government for the whole Realm, from hence it had (1) the Name of the Common Law given unto it in opposition to those particular Laws, which were then abolished, and by which the particular parts of the Kingdom had till then been governed in a distinct manner from each other, as hath been afore shown. And when it was confirmed and a new enacted by King *William* after the Conquest,

(1) *Ex his Tribus Legibus (scilicet Danica, West-Saxonica, & Merciana) Sanctus Edwardus unam Legem communem Edidit.*

Poly-

chronicon. p. 202. *Edwardus Confessor Leges communes Anglorum Genti tempore suo ordinavit, quia perante leges nimis partiales editæ fuerant.* *Bromton.* Col. 956. and afterwards the same Historian. — *Ex supradictis tribus Legibus, videlicet Merchenelaga, West-Saxene-Laga, & Dane-Laga, iste Rex Edwardus unam legem communem edidit.* Col. 957. *Noluit Rex Edwardus Confessor in uno Regno triplicem justitiæ Lancem, sed recensens denuo Anglorum, Danorum, & Merciorum Leges suam edidit parem omnibus, & communem, quæ a re Lex Communis, ab Autore Lex Sui Edwardi nuncupata est.* *Spelmanni Glossarium sub vocibus Lex Anglorum in Britannia.* p. 359. Col. 1. The same Author in his Tract of the Ancient Government of England hath these words — *King Edward the Confessor abolishing the three particular names aforementioned. (i. e. West-Saxon-Law, Mercian-Law, and Dane-Law,) he now called it the Common Law of England, for that no part of the Kingdom should henceforth be governed by any particular Law, but all alike by a Common-Law.* *Reliquiæ Spelmannianæ.* p. 49.

it became the foundation of what-
 ever hath been called the Common
 Law of the Land ever since. For
 as all Statute Law hath been graft-
 ed upon the 2d *Magna Charta*,
 which was made by King *Henry* the
 3d, and finally settled by King
Edward the 1st: So all Common
 Law (m) was grafted upon this first
Magna Charta, which was made by
 King *William the Conqueror*. And as
 the Statute Law hath grown by the
 addition of those new Statutes to the
 2d *Magna Charta*, which have since
 from time to time been made by
 the Parliament of the present form:
 so did the Common Law grow by the
 addition of those new Decrees, and
 new Institutions to the first *Magna*
Charta, which were from time to
 time made by the Parliament of the
 Old form. But I mean not, as if
 none of the ancient constitutions of
 the *Saxon* Government were con-
 tinued under that, which was af-
 terwards formed by the *Normans*,
 save only those Articles of King
Edward's Laws confirmed by the
 Conqueror in the 4th year of his
 Reign. For those being admitted
 for 2.

(m) *Spelman*
 speaking
 of the
 Laws of
 King *Ed-*
ward the
Confessor
 confirm-
 ed by
 King
William
 the Con-
 queror
 hath
 these
 words,
Convellun-
tur autem
et succeden-
tibus Regi-
buz, sed
ab ijs tra-
men, ut
lari Fluvij
ab angustis
Fontibus,
natum est
Fus nos-
trum hodi-
ernum, si-
lia mari
parum fini-
is. Gloss.
v. Lex
Anglo-
rum in
Britan-
nia. p.
359. Cel.

for fundamental Laws in that new Government, they must necessarily draw after them a great part of all the rest in the Execution of them. And therefore when *William the Conqueror* did by expresse words receive the one, he did by implication and necessary consequence receive the other also. And therefore I take in both into the foundation of this new Government laid by this first *Magna Charta*, from whence, I say, our Common Law grew up by such additions, as were afterwards made by the Parliament of the old form. For till the latter end of the Reign of King *Henry the 3d*, when the Parliament of the present form first had its Birth, the old *Saxon* form of holding Parliaments continued in this Land, and that was the Parent of the Common-Law in the same manner, as the Parliament of the present form hath been the Parent of the Statute Law ever since, and it produced it in this manner.

In the ancient *Gothic* Governments nothing of any moment was ever transacted by their Kings without their Parliaments, and the *Saxons*, *Danes*, and *Normans* having
been

been all descended from the *Goths*, they all continued this usage, when they came hither. And therefore all the Laws, that were here made by them were formed in these Assemblies. Thus the *Saxons*, when they first settled in this Land, having absolutely abolished all that was *British*, did in their Parliaments for every distinct Kingdom, which they here erected (besides the usages they brought with them out of *Germany*, which were common to all) form those distinct Laws, by which those distinct Kingdoms were governed. And when the *Danes* came hither they did the same thing. And from hence arose those several forms of Law, which I have mentioned. And when all these distinct Kingdoms became united into one Monarchy, the like Parliament then met for the whole Land, and common Laws for the whole Realm were thenceforth made by this general Parliament, in the same manner as particular Laws were enacted for each particular Kingdom by the particular Parliaments of those Kingdoms, before the Union of the
Monarchy

(n) Conve- Monarchy was made, till at length
 nire sole- in the Reign of King *Edward the*
 bant Baro- *Confessor* all was brought into one
 nes Regis, uniform or common form of Law
 prout opus fuerat, ter in manner, as I have above related,
 quotannis and as much of this, as was admit-
 ad Aulam ted in the *Norman* Government by
 Regiam, King *William the Conqueror*, was
 i. e. ad made the fundamental Law of that
 Natale Government, which with what was
 Domini afterwards built thereon by the Par-
 Nostri, ad liaments of the same form, as long
 Pascham, as that form continued, makes up
 & ad Per- all that, which we now call the
 tecosten, Common Law of this Realm. For
 prodireq; these Parliaments of the old *Saxon*
 tunc sole- form still continued under the *Nor-*
 bat Rex man Government till the time I have
 coronatus said, and were constituted, and did
 publice, & meet, and act in the same manner,
 cum Baro- as formerly under the *Saxon* Go-
 nibus de vernment, that is they usually met
 negotijs (n) thrice every Year at the Kings
 Regni con- Court, i. e. at *Christmas*, *Easter*
 finuere. and *Whitsuntide*, and oftner if any
 Sic Cmu- extraordinary occasion required, and
 tus Rex consisted (o) of all those who im-
 suas Leges
 in Christi
 talitij,
 Edmundus
 in Pascha-
 tis Festo,
 Henricus
 primus A^o
 1153. in
 F. ut co-

her. Sed & alijs quoque temporibus, ut fuit opus. Spelmannus
 in Glossario sub verbo Parliamentum.

(o) See Spelmans Tract of Parliaments.

medi-

mediately held of the Crown, and were Tenants in Chief to it. For all the rest of the Nation then holding under them, they were, while this state of the Nation held, the properest persons to be entrusted with their common interest, because in truth it was in a manner all their own by reason of the great and almost absolute power, which they then had over the Persons and Estates of their Tenants, and therefore when met they had the whole interest of the people in them, not only by representation, as is now the case of the House of Commons, but also in a manner by real propriety. And they did constitute not only the Supreme Council, but also the Supreme Tribunal of the Kingdom, and therefore they had the Name of *Magna Curia*, i. e. *The Great Court*, and were invested with power, not only of making new Laws, but also of receiving, and determining of Appeals from inferior Courts, from whence they were ultimately made to them, as now to the House of Lords, who in the change of the old form to that, which

(p) *Si aliqua nova, & inconfue- ta emer- serint, quæ nunquam prius evenerunt, & obscurum & difficile sit eorum judicium, tunc ponantur Judi- cia in re- spectu usq; ad Mag- nam Curi- am, ut ibi per Conci- lium Curie termine- tur. Brac- ton. lib. 1. c. 2. See Cokes In- stitutes Part 2. upon the second Statute of West- minster cap. 24 p. 408.*

which is at present, had this power transmitted solely to them exclusive of the House of Commons, altho during the old form it was in the whole Parliament. And if (p) any difficulty arose in the Execution of Justice, either through the defect, or obscurity of the Law, which did put the Judges at a loss, what Judgement to give in the case before them, this was also referred to this great Council. And by the additions of such Decisions, Decrees, new Laws, new Institutions, and Interpretations of Laws afore enacted, as were on those, and other like occasions there made from time to time, till with the new form of Parliament now in being the way of written Statutes come in, the Common Law of this Land from the foundation of these Laws of King *Edward*, which were received by the Conqueror, hath been built up to that perfection, in which it hath been transmitted to us, and still continues to be the most venerable, and most authentic part of our Constitution, as far as it hath not been (as some say to the great damage of the Kingdom) supplanted by the Statutes. And

And of this Law the payment of Tithes having been an Original Article, and that not only in the first body, which was digested of it by King *Edward the Confessor*, but also in the re-establishment, which was afterwards made of it by King *William the Conqueror*; and the right, which the Clergy have to these Tithes, having been by the same Law so generally and firmly ascertained ever since, as that it allows (q) of no prescription against the payment of them to any person or place whatsoever (altho the Corruptions of the Church of Rome through the prevalency of the Papal Power in this Land brought some such afterwards in) this proves, how solid and firm a foundation the right of Tithes hath in this Kingdom, as being universally settled in it by the fundamental Charter of that Law, which is not only the most ancient, but also in the opinion of many the most valuable Rule of our present Government.

It must be acknowledged, that these Laws of King *Edward* confirmed

Q

(q) It is a known rule in the Common Law *De non decimando nulla est prescriptio.*

firmed to the People of *England* by the Conqueror were not pleasing to him, or his successors, that reigned next after him, but this first *Magna Charta* went down as hard with them, as the second did with King *John*, the first granter of it, and his next successors, and neither of them had their establishment, till they were in a manner extorted by the People of the Land. For although King *William* the Conqueror made a seeming free Grant of those Laws, and after-

(r) The Words of Mathew Paris in the Life of Frederick Abbot of St Albans are as followeth. Rex pro bono Pacis juravit super omnes

wards (r) swore to them, yet this last was not done, till he was compelled to it by a great body of the People then in Arms against him, and he would afterwards have wholly supplanted them by another body of Laws, (s) which he craftily set up against them under the same Title of King *Edwards* Laws, tho of a nature quite different from

Reliquias Ecclesie Sti Albani, vasisq; sacrosanctis Evangelijis, ministrante juramentum Abbat Friderico, bonas, & approbatas antiquas Regni Leges, quas sancti & pii Anglia Reges, ejus Antecessores, & maxime Rex Edwardus, Statuerunt, inviolabiliter observare. p. 1008. lin. 5 l.

(s) *Ingulph. p. 88.*

them,

them, but he dying the same Year, he published them, they also dyed with him, as there will be an occasion hereafter more fully to relate.

King *William Rufus*, who succeeded the Conqueror, it must be confessed, (t) regarded not these Laws, nor any else. For being a very Capricious, Extravagant Prince, that had little respect either to Law, Right, or Religion, he governed by no other Law, but by his own Humour, or scarce had any other aim, but of Lust, Covetousness, Ambition, or Arbitrary Power, in any thing, that he did.

(t) See Cokes Character of him in his Preface to the 8th Part of his Reports.

But he was no sooner dead, but the People of *England* weary of such a disorderly Government immediately called again for the Laws of King *Edward*, and would not admit King *Henry* the 1st to the Crown, (u) till he had not only granted them another Charter for the reviving, and confirming of these Laws, but had also sworn to the observance of them. And for the first Eight Years of his Reign, while his Elder Brother *Robert Duke of Normandy* was in a condition of again demanding the Crown, which he had usurped

(u) M. Paris sub anno. 1100.

(w) Mat-
thew Paris
tells us,
that Duke
Robert be-
ing taken
Prisoner,
and com-
mitted to
safe custo-
dy, Rex ab
omni fas-
tione
liberatus
dedignaba-
tur, quæ
promissi-
onibus suis
adimplere,
minus mi-
nus accu-
mulando,
qui omnes
conquesti
sunt coram
Deo ultio-
nem Domi-
no. Sub an-
no. 1107.
p. 52. lin.
62.
(x) p. 175.
(y) See
Spelman's
Glossary
sub verbis
Lex Hen-
rici pri-
mi, & sub
verbis Lex
Salica.
 from him, he duly governed ac-
 cording to this Rule, which he had
 sworn to. But when he had taken
 his Brother Prisoner, and fully set-
 led himself in *Normandy*, as well as in
England, so as no longer to stand in
 fear of any Competitor for either,
 and therefore no longer needed the
 favour and assistance of the *English*
 to support him, (w) he set himself
 then to the advancing of his own
 Regal authority without having any
 further regard to the People, or a-
 ny of their claims. And in order
 hereto he framed a large new Body
 of Laws, more for the advantage of
 his own Prerogative, than the
 Rights and Liberties of his Subjects,
 and setting all others aside com-
 manded these only to be observed all
 over his Kingdom. There is still
 extant a Copy of them in the Red
 Book in the Exchequer, from
 whence they have been published by
 Sir Roger Twissden (x) at the end of
 Wheloc's Edition of *Lambard's Ar-
 chaionomia*. And they seem to be a
 collection made out (y) of the *Salic*
 Law, (z) the *Ripuarian* Law, the
Salica.

(z) The *Ripuarians* were those *Germans*, who dwelt between
 the Banks of the *Meuse*, the *Rhine*, and the *Mosel*.

Old Saxon Law, and other Laws of those times. But whatsoever alteration he intended hereby from the Laws of King *Edward* in other particulars, he took care, that those Articles of them, which related to Tithes, should still be maintained in the same force, and vigor. And therefore, that the payment of them, and all other Church dues, might fully be provided for, the 11th Chapter of these Laws, bearing the Title, *De Placitis Ecclesie ad Regem pertinentibus. i. e. Of the Pleas of the Church belonging to the King*, doth enact as followeth,

Si quis Rectam Decimam super teneat, vadat Præpositus Regis, & Episcopi, & Terræ Domini cum Presbytero, & ingratas auferant, & Ecclesiæ, cui pertinebit, reddant, & nonnam partem relinquunt ei, qui Decimam dare noluit, reliquam in duas partes dividant, Dimidium habeat Dominus, Dimidium habeat Episcopus. Qui Cyricseattum tenebit ultra Festum Sti Martini, reddat eum Episcopo, & undecies persolvat, & Regi 50 Solidos. Si quis Dei Rectitudines per vim teneat, solvat Lash-

*lite cum Danis, plenam Witam cum
Anglis, aut neget cum undecies. i.e.*

‘ If any shall detain his due
‘ Tithes, let the Kings Reve, and
‘ the Bishops Reve, and the Reve
‘ of the Lord of the Mannor go
‘ with the Parish Priest, and take
‘ from him by force the Tenth part,
‘ and render it to the Church, to
‘ which it shall belong, and leave
‘ only the Ninth part to him, who
‘ would not pay the Tenth, and
‘ let them divide the remainder in-
‘ to two half parts, and let the
‘ Bishop have one half part, and
‘ the Lord of the Mannor the other.
‘ Whosoever shall detain his Cyric-
‘ sceat beyond St *Martin’s*-Day, let
‘ him render it to the Bishop, with
‘ a fine of eleven times the value,
‘ and let him more-over pay a fine
‘ to the King of Fifty Shillings.
‘ And if any one shall forceably
‘ detain any of God’s dues, let
‘ him, if a *Dane*, pay the *Danish* fine
‘ *Lasblite*, and, if an *English*-man,
‘ the *English* fine *Wita*, or eleven
‘ times the value on his denial,

But

But the new Laws of King Henry being very unacceptable (a) to the English, when King Stephen came to the Crown, they would not be satisfied, unless the Laws of King Edward, (i. e. Those which had been granted to them by the Conqueror in the 4th Year of his Reign) were again restored to them, and therefore to give them content he was forced again to restore those Laws, and not only by his Charter to confirm them unto them, but also to swear to the observance of them. And when Maud the Empress, while in competition with him for the Crown, refused to do the same at the request of the Citizens of London, (b) they expelled her out of the City, and she could never recover herself afterwards, but it proved to her the loss of the Crown, which she was in a fair way otherwise to have recovered.

And when King Henry the Second after the Death of King

8th part of his Reports, and in *Spelman's Glossary*. sub verb. *Magna Charta*. p. 374. col. 2. (c) *Florentius Wigorniensis*, sub anno 1141.

(a) The Citizens of London in their Petition to Maud the Empress, anno 1141. complain of those Laws, that they were grievous to them. Continuatio Florentij Wigorniensis sub anno.

(b) The Charter is extant in the Red Book in the Exchequer, from whence it is quoted by Coke in the Preface to the

Stephen was received to be King, to observe the Laws of King Edward was part of the Oath, which he swore at his Coronation. And that Copy of those Laws, which we have in *Hoveden*, was taken from a draught of them, which was written out by *Ranulph de Glanvil* his great Justitiary, (as it may well seem, by his Command) for the better informing of his Conscience of what he had sworn to, and the surer directing of him to govern according to them. For before the recital of those Laws in *Hoveden* are these words premised. *Eodem anno* (i. e. A^o Domini 1180.) *Henricus Rex Anglie Pater constituit Ranulphum de Glanvil summum Justitiarium totius Anglie, cujus sapientia condita sunt Leges subscripta, quas Anglicanas vocamus. i. e. The same Year* (i. e. the Year of our Lord 1180) Henry King of England (cc) *the Father made Ranulph de Glanvill High Justitiary of all England, by whose Wisdom those Laws underwritten, which we call the English Laws, were drawn into form. And then immediately follow first the Laws of King William the Conqueror.*

(cc) This is said to distinguish him from Henry his Son, who was then alive, and having been Crowned had the Title of King al-

ror, which are in the Red Book in the Exchequer, and next after them the Laws of King Edward confirmed by the said King William in the Fourth Year of his Reign. And the same King Henry did also by his (a) Charter confirm to the People of England those Laws of King Edward, which he had sworn to. The words of which Charter (b) Coke gives us out of the Red Book of the Exchequer, as followeth. Henry, &c. Know ye, that I to the Honour of God and Holy Church, and for the Common amendment of my whole Kingdom have granted, and restored, and by my Charter confirmed unto God, and Holy Church, and to all Earls, and Barons, and to all my Subjects, all Grants, Donations, and Liberties, and free Customs, which Henry my Grandfather gave, and granted unto them, and all those evil Customs, which he abolished, and remitted, I likewise do remit, and for me and my Heirs do agree shall be abolished. By which words (saith (c) Coke) it appeareth, that he had reference to that Charter of his Grandfather, that abolished the unjust exactions, and usages of his Brothers Reign, and confirmed

(d) The Red-Book in the Exchequer. Spelm.

Concil. Anglic. Tom.

2. p. 51.

Brady's

Appendix to

the 1st

Vol. of

his com-

pleat

History

of Eng-

land. No.

40. p. 40.

(e) In the

Preface

to the 8th

part of his

Reports.

See also

Spelman's

Glossary,

sub verb.

Magna

Charta. p.

375. col.

1. & Con-

cil. Tom.

2. p. 51.

And Bra-

dy's Pre-

face to

the first

part of

his Histo-

ry. p. 31.

the old and excellent Laws under St Edwards Government. So far this great Lawyer, and it is plain it could be no otherwise, than as he says. For these Words must either refer to the Laws of King Henry the 1st, made in the 8th Year of his Reign, or else to those made in the first Year of his Reign. But those of the 8th Year of that Kings Reign being (f) oppressive Laws, which the *English* never liked, but always looked on as a grivance, and which they would not bear under his Daughter, these Words, *Grants, Donations, Liberties, and Free-Customs* in this Charter can never be applied to them, and therefore they must be understood of that Charter of Liberties, which was made in the first Year of that King. And the Laws, which he thereby granted and restored being the Laws of King Edward, the Laws, which Henry the 2d his Grandson granted and confirmed by this Charter, must be King Edward's Laws also.

(f) *Graves*, saith the Continuator of *Blorence* of Worcester under the Year 1141.

(g) *De Gestis Regum Anglorum*. lib. 2. c. 11.

I should be too tedious, should I go any further in particulars. (g) *William of Malmesbury* speaks in general.

neral, till the time of King *Henry* the 2d, that it was the usage for their Kings to swear to the observance of the Laws of King *Edward*. His words are *nunc tempore*, that is to his time, and whether he dyed in the latter end of King *Stephen's* Reign, or in the beginning of King *Henry* the Seconds, is not certain. They, who place his Death in the Year 1143, have no other reason for it, but that there he ends his History. But supposing he spoke this in reference to the time of King *Stephen* only, his speaking of it then as a custom must imply, that it was done by all from the Conquest. That it was so by King *William* the first, and King *Henry* the first, is certain, only of King *William* the 2d there is nothing said, as to this matter. But this custom did not here end, where *Malmsbury* speaks of it, but went on to all the succeeding Kings and Queens, that have ever since Reign'd in this Land, till the late Revolution. For they all of them in their Coronation Oaths swore to observe the Laws of *St Edward*. (h) The Words of the Coronation Oath sworn

(h) *Rushworth's* Collections, vol. 1. p. 200. The Annals of King *James* and King *Charles* the First. p. 114. The Book of Oaths published A° 1689. p. 154, 230. and 260.

sworn by King Charles the first, King Charles the second and King James the second are. That they would grant, and keep, and did by their Oath confirm to the People of England the Laws, and Customs to them granted by the Kings of England, their Lawful, and Religious Predecessors, and namely the Laws, Customs, and Franchises granted to the Clergy by the glorious King St Edward their Predecessor. And they are exactly the words (b 1) of the Coronation Oath of King Edward the second, King (b 2) Edward the third, and King (b 3) Richard the second, (sa-
 (b) Claus. by the glorious King St Edward their
 Edw. 2. Predecessor. And they are exactly
 A^o 1. the words (b 1) of the Coronation
 Nov. 10. of Oath of King Edward the second,
 Book of of Oath of King Edward the second,
 Oaths. p. King (b 2) Edward the third, and
 195. King (b 3) Richard the second, (sa-
 (b 2) Ry- King (b 3) Richard the second, (sa-
 meri Acta ving that whereas in the Oath taken
 publica. by these Kings it is, *Et nomement*
 Tom. 4. *les Leys & les Custumes & les Franchi-*
 p. 244. *sez grantez au Clergy & au People par*
 (b 3) Ry- *le glorious Roy Seint Edward. i. e.*
 meri Acta *And namely the Laws, Customs, and*
 publica. *Franchizes granted to the Clergy, and*
 Tom. 7. *to the People by the glorious King St*
 p. 159. *Edward. The Words, and to the*
 Prins Sig- *People, were left out in the Corona-*
 nal Loy- *tion Oath, taken by King Charles*
 alty of *the First, King Charles the Second,*
 Pious *and King James the Second, which*
 Christi- *I have above receited though I sup-*
 ans to- *pose*
 wards
 their
 Kings.
 Part 2. p.
 234. and
 247.

pose without any other design, than to avoid a repetition, the Rights of the People having been sworn to in the words immediate preceding. But the Oath sworn to by King *James* the First exactly agreed with the Old Oath in this particular. And whoever will search the old Records will find the Laws of King *Edward the Confessor* in like manner sworn to by all the other Kings and Queens, that have reigned in this Land ever since the Conquest till the time, I have said. But after the late Revolution (*i*) a new Coronation Oath having been framed by the Parliament against the Coronation of King *William* and Queen *Mary*, than was it, that the swearing to the Laws of *St Edward* was first left out of the Coronation Oath. Till then all the Kings and Queens, that have Reigned here since the Conquest (*ii*) did swear to the observance of the Laws of that King in particular; and the Law of Tithes, which I have above recited, is one of those Laws in that Charter of the Confirmation of them, which was granted to the People of *England*

(b 4) *Prims*
Signal
Loyalty,
Sec. part
2. p. 169.
171.
(i) *A^o 1.
Gulielmi
& Mariae.*
Cap. 6.
(ii) *Prims's*
Historical De-
monstration of
the Supreme
Ecclesiastical
Jurisdiction of the
Kings of
England,
Tom. 1.
Chap. 9.
p. 309.
where he
recites
the words
of the
Oath, as
here re-
cited, and
saith, that
all our
Kings
since the
Conquest
swore to
them.

lund by King *William* the Conqueror in the Fourth Year of his Reign.

But against all, that hath been said in this Chapter, there are these following Objections.

I. That the Copy of King *Edward's* Laws confirmed by the Conqueror, which we have in the History of *Ingulph*, who was Abbot of *Crowland* in the Conquerors time, and brought it immediately from that Kings Court to his Abbey, hath not this Law for Tithes in it : And that the ancientest Author, which hath the other Copy of these Laws, wherein that Law of Tithes is contained, is *Roger Hoveden*, who not having written his History till the Reign of King *John*, which was 140 Years after the time, when he saith King *William* the Conqueror confirmed these Laws, he cannot be of equal Credit with the other concerning this matter, who not only lived in the time, but was also (as he tells us) present at the Kings Court, when it was done.

II. That

II. That in *Hoveden's* Copy, wherein this Law for Tithes is found, there are several marks, which prove it to be spurious; and that therefore *Ingulph's* Copy of these Laws, wherein there is no such Law for Tithes, is the only true and authentic Copy, and the other a false one, ⁽¹⁾ forged by some unskilful Bishop, Monk, or Clerk, in after times, for the advancing of their own interest, and that therefore nothing, that is said of Tithes from hence, can be of any validity for them. And

⁽¹⁾ Brady, in his Preface to the 1st volume of his History.

III. That supposing it not to be forged, but to be a true and Authentic Copy, yet as to that part of it, which relates to Tithes, it hath hapned to it, as it did to all other Laws here made for them before, that is, they were all antiquated by their non observance. For it is certain, that in those times immediately following the Conquest (says ^(m) he that makes the Objection) no practice followed in the Obedience of those Laws, which was answerable to them. And that therefore they having had no influence

^(m) Selden of Tithes c. 10. and Review. c. 8.

in

in the Creating of that right of Tithes, which is now settled in this Land, it could have nothing of its Original from any of them.

I. To the first of which objections I answer as followeth.

I. I acknowledge, that *Ingulph*, having been Abbot of *Crowland* in the Conquerors time, and having then brought from that Kings Court to his Abbey that Copy of Laws, which he hath inserted in his History, is an evidence of uncontrollable authority in all things, which he relates concerning it. And I do also acknowledge, that in this Copy there is not that Law for the payment of Tithes, which is in the other, yet that therefore that other Copy, wherein this Law is, should not be true also, doth not follow. I assert them to be both true, and to have been made at different times under the same Title, as will appear from these following reasons. For

1. They contain quite different Laws almost in all particulars, and therefore must be different Bodies of Laws published at different times;
and

and not different Copies of the same Laws.

2. The Laws in *Ingulph* are spoken of by him as such, that were not known to his Abbey, till he brought them thither, which cannot be supposed, had they been collected, and ratified by the Conqueror before that Year. For (n) the Monks being in those times the chief Lawyers in the Land, who not only taught Law in their Cells, but also practised and pleaded it in the Civil Courts, it cannot be supposed, but that in so great and so famous an Abbey, as that of *Cromlond* (which was one of the chiefest of the Kingdom) there must have been many of those Lawyer Monks, who could not, but have been well acquainted with this body of Laws, had it been afore enacted, and in that solemn manner, as *Ingulph* relates, proclaimed all over the Land, and given in charge by the King to all his Justices. And therefore the care, which *Ingulph* took to bring a true Copy of these Laws to his Abbey for the information of those under

(n) See *Selden's* review of of his History of Tithes. c. 8. and *Dugdale's* Origines Juridicales. c. 8.

R.

him

(c) *Ingulph.*
p. 80.

(p) See
Sir Roger
Twissden's
Adver-
tisement
to the
Reader
before
the Laws
of King
William
the Con-
queror
and King
Henry the
First
published
by him at
the end
of *Lam-
bards Ar-
chaionom-
ia* of
Wikeles
Edition p.
157. and
Mr Sel-
dens Pre-
face to
his Editi-
on of *Ed-
mer.*

him, plainly proves them to have been newly published: But it was not till the last Year of the Conquerors Reign, that he did this for them. For (o) it was not (as he himself tells us) till after the finishing of Doomsday Book, and the Year, (p) when that Book was finished, was the last of the Conquerors Reign. And therefore this plainly proves, that the Body of Laws, which we have in *Ingulph* under the Title of King *Edward's* Laws confirmed by the Conqueror, could not have been collected and published by him till the last Year of his Reign. But the other Body of Laws under the same Title, wherein the Law for Tithes is contained, was collected and published in the Fourth Year of that Kings Reign, which is said not only in *Hoveden*, but also in the Preface before these Laws in all the Copies, that are extant of them, of which there are a great many in several Libraries in this Kingdom, as well private as publick. And therefore these two Copies are not different Copies of the same Laws, but Copies,

pics of different Laws made at different times, and for different purposes, as shall hereafter be shown.

3. There is as good evidence for the Copy of the Fourth Year of King *William's* Reign, as for the other of the last Year of his Reign, if not much better. I deny not *Ingulph's* authority to be good, but for his Copy there is his authority only, there being (q) no other Copy of those Laws any where extant, but what we have from him. But of the other Copy collected in the 4th Year of King *William* the Conqueror there are a great number. For it is not only in *Hoveden*, but also in *Knighton*, and the *Lichfield Chronicle* mentioned by *Selden*, and besides there are a great many Manuscript Copies of those Laws in several Libraries of this Kingdom, as I have already said, from which it hath been published by *Lambard*, *Spelman*, *Prin*, and others, and some of them are written in an hand as ancient almost as *Ingulph* himself, and therefore must be allowed, taking all this together, to be of as good authority as any thing, that we have from him. R 2 4. The

(q) Mr *Selden's* words are, neq; præter *Ingulphum* quis leges has tradidit. Notæ *Eadmeri*. p. 189. the only Copy, which I can hear of, that is extant of them in any of our Libraries, is a *Latin* Translation of them in the *Cotton* Library, (*Vitel. E. 5.*) which is in a Modern hand, and translated out of *Ingulph's* History.

4. The Laws of King *Edward* promulgated in the 4th Year of the Conquerors Reign were written from the Mouths of the Jurors by

(r) *Chronicon I. ch. feldense in Notis Seldeni ad Eadme- rum. p. 171. Rud- born in*

Anglia Sa- cra. p. 259.

(s) *Lam- bard's Ar- chaionomia of Whelocs Edition.*

p. 149.

(t) *M. Pa- ris, sub anno*

1087. p. 10.

(r) *Alared* Arch-Bishop of *York*, and *Hugh* Bishop of *London*. But there is also mention made of Laws of King *Edward* confirmed, and promulgated by King *William* the Conqueror, which were collected in the same manner, and written from the Mouths of like Jurors (s) by *Thomas* Arch-Bishop of *York*, and *Maurice* Bishop of *London*, which could not be till the last Year of King *Williams* Reign, because it was not till then, (t) that *Maurice* was made Bishop of *London*.

And therefore this proves, that there were two such Collections of Laws made and promulgated by the Conqueror under the same Title of King *Edwards* Laws, the first in the fourth Year, and the other in the last Year of his Reign. It must be acknowledged, that in *Lambarà's* Edition of the Laws of King *Edward*, that Arch-Bishop *Thomas*, who is there said to be one of the writers of this Collection, is styled

Ar-

Archiepiscopus Cantuariensis, and not *Eboracensis*, but from the Conquest there was no *Thomas* in that See till *Thomas Becket*, who was about 100 Years after. And therefore this may seem to be a blast upon that authority. But in (u) one of the ancientest Copies of those Laws, which is in the Cotton Library, this *Thomas* is stiled barely *Archiepiscopus* without any further addition, as to the See, he was of, and there being then a (w) *Thomas* Arch-Bishop of York, its plain, he was the person here meant, and that the Stile *Cantuariensis* in Lambard's Edition was added in the Copy, which he Printed from, by the ignorant officiousness, or careless negligence of some after Transcriber. It must be acknowledged, that the passage above recited out of Lambard's Edition of King Edward's Laws concerning the Collection of them written by *Thomas* Arch-Bishop of York, and *Maurice* Bishop of London, is an intropolated Clause, and the very nature of the Argument, for which I bring it, must necessarily suppose it so. For it is to

(u) *Claudius. D.*
2.

(w) *Thomas* the first of that Name, that was Arch-Bishop of York, was promoted to that See in the Year 1070. which was the 4th Year of the Conquerors Reign, and continued in it till the Reign of King Henry the first.

prove a 2d Collection of Laws, under the same Title with the first, to have been made by the Conqueror 16 Years after his making of the first, and therefore in the course of this argument it cannot be supposed to have been an Original part of the first. But altho it be not a true part of those Laws, yet it may be a true Historical remark added thereto by some after hand concerning the Collecting of that second Copy of Laws, which we have in *Ingulph*, and I bring it for no other purpose.

5. That there was a Collection of King *Edward's* Laws made and confirmed by the Conqueror before the last of his Reign, appears by (x) another Body of his Laws in the Red Book in the Exchequer, written in *Latin*, wherein he commands the observance of King *Edward's* Laws, as before augmented by him. Indeed it doth not appear in what Year of his Reign these *Latin* Laws were made, but it must have been before the last Year of his Reign. For in that Year he went very early into *Normandy*, as appears

(x) See
Twissens
Edition
of these
Laws. p.
170. *Selden*
in *Notitia*
ad *Edwardum*. p.
192. *Hoveden*. p.
600. and
601.

pears from the History of his Wars and other Transactions there till his death. And therefore supposing, (which hath been proved) that the Body of Laws in *Ingulph* was made in the last Year of his Reign, there will be no time left for him of his stay in *England* after that to frame that other Body of Laws in the Red Book, neither is it probable, that he should so soon after make another body of Laws upon the back of the other. And therefore what he commands in the Laws of ^(y) *Selden* the Red Book for the obeying of ^{speaking} King *Edward's* Laws, published by ^{of Ingulphs} Copy of him, cannot refer to *Ingulphs* Copy ^{King Ed-} of them, but must be spoken of ^{mards} some other Collection of these Laws ^{Laws} before made, and what other could ^{pro genui-} this be, but that which we have a- ^{nis, ac} bove proved to have been published ^{solis, qui-} by him in the Fourth Year of his ^{bus Regis,} Reign? ^{& Ordinum auto-}

6. Whereas ^(y) *Selden* saith, that ^{accefferat,} those Laws in *Ingulph* were the ge- ^{habitus fu-} nuin and only Laws of King *Ed-* ^{iff: (si In-} ward, which were confirmed by the ^{gulpho cr-} Conqueror, and brings *Ingulph's* ^{dis) explo-} authority for it, he prevaricates here- ^{ratissimum} ^{est. in No-} ^{tis ad Ed-} ^{merum.}

(2) See
his words
p. 88.

in. For he knew *Ingulph* saith no such thing. He says indeed, (2) that they were the Laws of King *Edward*, which the Conqueror published, and commanded to be observed as Authentical, but he saith nothing, from whence it can be any way inferred, that there might not have been another body of Laws under the same Title published by him before, as *Hoveden*, and others say there was in the Fourth Year of that Kings Reign. And thus far as to my first answer to this Objection. I shall further add.

2. That though there be no Law for Tithes in *Ingulph's* Copy, yet this is no Argument, but that the Law, which is in the other for the payment of them, might still retain its force. Had all the other Laws in the first Copy been repeated in the second, and this for Tithes only left out, the omitting of it in this case might look like a repeal. But when the second Copy hath no such repetition of any thing from the first, but contains a Collection of other Laws after published, and such as are no way inconsistent with the Law of Tithes in the former, the pub-

publishing of this new Collection of Laws leaves that Law of Tithes wholly in the same force, in which it was before, and can be no more said to abolish it, than the Acts of Parliament, which are made one Year, can be said to abolish all those, which were enacted in the former.

II. And thus much in answer to the first objection against that Copy of King *Edward's* Laws, in which the Law of Tithes is contained.

The second is, that there are many marks in it, which prove it to be spurious. (a) *Brady* names two, 1st, That it consists of *Norman* Terms, and therefore could not have been made by King *Edward* the Con- fessor, and 2dly, That there are some particulars in it, which relate to times after the Conquerors Death, and therefore it could not be the Copy, which he confirmed.

(a) In his Preface to the 1st Volume of his History. p. 30.

And *Selden* will have it to be another mark of its being spurious, (b) that it is written in *Latin*, and not in *French*, which from the Conquest he will have to be the sole Law Language of this Land, till an alteration was made herein by the Statutes in the Reign of King

(b) In *Notis ad Edimerum*. p. 189.

Ed-

Edward the Third. To which I answer.

1. As to the first of these marks, *Edward* the Confessor having been educated in *Normandy* from his Childhood, and lived there during all the Reigns of his Three Predecessors, on his return hither to be King he brought with him not only *Norman* Favourites, and *Norman* Customs, but also (c) the *Norman* Language, so that the Nobility of *England* usually spoke none other in their Houses during all that Reign. And therefore it is not altogether improbable, but that the *Norman* Terms, which are found in this Copy of King *Edward's* Laws, might have been brought into use in this Land even in his Reign. But if not, we may be sure, they were so in the Conquerors. And King (d) *Henry* the First telling us in his Charter granted the *English* on his first accession to the Throne, that, when his Father published those Laws, he did it with his own emendations; to put in such Terms, as might make them intelligible to his *Normans*, we may be sure, was one of them. As

(c) *Ingulp*
p. 62.

(d) *M. Paris*
sub an-
no 1100.
p. 47.

As to the 2d mark, it must be acknowledged, that there are some Interpolations in this Copy of King Edward's Laws added in after times.

As in the 11th Chapter entitled, *De* ^(e) *Danegeld*, i. e. *Of Tax called Dane-gelt*, there is mention made of the paying of this Tax in the Reign of King William Rufus, and of the War, which he had with his Brother Robert Duke of Normandy. And Brady takes notice of another in the 35th Chapter, entitled, *De Griue*, where, he saith, there seems to be a reference to the Assize of Arms made in the Reign of King Henry the Second. And he might, if he had pleased, have added for a third all that, which follows, concerning King Arthur, and other British Fables. All which, it is certain, was never heard of ^(f) till invented by Geoffrey of Monmouth in the time of King Henry the Second, and then imposed on the World in his Fabulous History of Britain, which is all a bundle of Fictions spun out of his own Brain. And therefore whatsoever of this stuff is foisted into the body of these Laws, must

^(e) *Danegelt* was a Tax paid the Saxon Kings on the account of the Danes, and was for some time continued after the Conquest, tho the reason of it ceased.

^(f) Vide Proximum Historia Gulielmi Nubrigen-
sis.

(ff) *Differ-
entia E-
pistolæ.*
p. 95.

must necessary have been added after the first collecting and confirming of them in the time of the Conqueror. And this (ff) Dr *Hicks* doth not over-look, altho' Dr *Brady* doth. Nay, I will further acknowledge, that whatsoever else is in this Copy of King *Edward's* Laws, which is not purely, and strictly Legislative, whether it contains Historical Remarks, Political Reflections, or Interpretations of Words, or any other matter, that is not purely Law, all came in thither by the same way of Interpolation from some after hand, and this is the utmost, that either of the two Doctors, or any one else can object on this particular. But that this Copy of King *Edward's* Laws is therefore spurious, because it hath these Interpolations in it, doth not follow, and that for these following reasons.

1. Because if all ancient Writings were to be rejected as spurious, that have interpolations in them, we must condemn, and reject most, if not all, of the best Authors, we have. For scarce any of them have
es-

escaped from being thus interpolated by after Transcribers, and that either, 1. by the mistake of the Transcribers themselves in drawing into the Text, what were only Marginal Notes in the Copies, they wrot after; or else, 2dly, designedly by those, who imployed those Transcribers in the writing out of these Books, such often taking upon them to add of their own, what they thought would conduce to the better illustrating or explaining the Author, that was Copied out, in the same manner as bold Criticks now frequently do in the Editions of those Old Authors, which they do a new set forth. And this last I reckon to be the case, that is now before us. For

2. During the time of the Parliament of the Old Form, by which the Common Law was produced, none of their Acts were committed to Authentic Records, there being this difference between the Statute Law, and the Common Law, that the former is all enrolled on standing Records, whereas the other was wholly
(9) Tra-

(q) Both
Glanvil
 and *Fleta*
 tell us in
 the Pre-
 face of
 their
 Books,
 that the
 Law of
England
 was in
 their
 time. *Lex*
non Scripta.
 And they
 do both
 of them
 give us
 this rea-
 son for it.
Leges &
jura Regni
scripto uni-
versaliter
concludi
nostris
temporibus
omnino
quidem im-
possibile
est, cum
propter
scribenti-
um igno-
rantiam,
cum prop-
ter earum
multitudi-
nem con-
fusam.

(q) Traditional. And therefore
 till *Magna Charta*, and the settling
 the present form of Parliament,
 which first brought in the use of
 Rolls, and Authentic Registers for
 all their Acts; the Laws of the
 Land were no otherwise preserved,
 than by the Memories of Men, and
 the private Papers of those, who
 professed the Law. And as those
 Papers passed from one Succession
 of Men to another, they often
 received additions from the hands,
 they passed through, by way
 of Notes, for the explaining or il-
 lustrating the Laws they contained.
 And this was the case of those Laws
 of King *Edward the Confessor* con-
 firmed by the Conqueror in the 4th
 Year of his Reign. The first Co-
 py of them was taken by *Aldred*,
 Arch-Bishop of *York*, and *Hugh*
 Bishop of *London*, in manner as I
 have above related. After this they
 underwent the Correction and E-
 mendation of the King in his next
 Parliament, and as it came from
 him, it was the Authentic Law,
 which was promulgated to the Peo-
 ple, and transmitted to succeeding
 Ages. And what were the true
 Laws,

Laws, that were thus confirmed, none could know better for his ^(b) His time, than *Ranulph de Glanvill*, ^{Title was} who was the the greatest Lawyer, ^{Summus} that had been in *England* for many ^{us Anglia,} Ages before. And the Copy, which ^{and his} *Hoveden* gives us of them, he tells ^{Office to} us, was drawn by him, when he ^{be Lieu-} was ^{tenant of} ^(h) High Justitiary of *England* ^{the King-} under King *Henry* the Second, ^{dom un-} ^{A^o} Dom. 1180, and it is not likely, or ^{King, es-} almost possible, that such a Man as ^{pecially} he was should be imposed on by a ^{in his ab-} ^{sence out} ^{of the} ^{King-} spurious Copy of these Laws. As ^{dom, for} to the Historical Remark concern- ^{then of} ^{course} ^{the Su-} ^{preme} ^{admini-} ^{stration} ^{of the Go-} ^{vernment} ^{was in his} ^{hands, till} ^{the King} ^{again re-} ^{turned.} ^{But Ed-} ^{ward the} ^{First al-} ing *William Rufus*, which is inter- ^{polated in the Chapter De Dane-} ^{geldo,} and is (it must be acknow- ^{ledged}) found in this Copy, it was either added by him, or else by some other Lawyer, through whose hands the Transcripts of those Laws passed, before they come to his. It is most probable that it was added by him, and so ^(hh) Sir Roger Twis-

tered his Stile, and cut short his authority to that, which is at present used by the Lord Chief Justice of the Kings Bench, who is still stiled *Capitalis Justitiarius Angliae*. See *Du Fresnes* Glossary in the word *Justitiarius*, and *Cokes Institutes*, part 4. c. 7.

(hh) In a Marginal Note to the Fifth Law of his Edition King *Henry* the Seconds Laws. p. 179.

den says. And the same liberty which he took of adding his remarks to those Laws, other Lawyers after took also to add theirs, and in this manner all the other Interpolations, which are found in any of the Copies of those Laws, crep'd into them. And that it was thus the usage of the Lawyers of those times to transmit the Traditionary Copies of the Laws of the Land from one to another with the additions of their own Remarks and Annotations inserted into them, will appear from other instances of it in those times. For in the Laws of King *Henry the First*, which are in the Red Book in the Exchequer, in the 5th Chapter of those Laws, there are two Quotations out of the Decretum of *Gratian*. But *Gratian* did not finish that work till the Year (i) 1151, which was (k) 16 Years after King *Henry the first* was dead. And therefore these Quotations must have been added, by way of Annotations, to the Original draught by those, whose hands it afterwards passed thorough, before entered in that Book. And yet no body

(i) *Math. West. sub anno 1151. Vide etiam Praefationem ad Gratiani Decretum.*

(k) King *Henry the First* died December the 1st A^o 1155.

body can justly accuse that venerable Record to be for this reason spurious. And if a Books being interpolated be sufficient to prove it spurious, none must be more so, than (†) *Littletons Tentures*. For none hath had more interpolated additions, than have been made to that famous Author by those different Hands, which it passed thorough, while in Manuscript. Nay, I may further add, that according to his way of arguing, *Magna Charta* itself must be a spurious Law. For in all the Printed Copies, which we have of that Law, as well in that, which *Coke* Comments upon in the 2d part of his *Institutes*, as in all the Printed Statute Books, it is said to have been passed by King *Henry* the 3d on the 10th of *February* in the Ninth Year of his Reign (*i. e.* A^o Dom. 1224) *His Testibus Bonifacio Cantuariensi Archiepiscopo, Eustachio Londinensi Episcopo, &c.* Whereas *Boniface* was not Arch-Bishop of *Canterbury* till above twenty Year after. (kk) *M. Paris. p. 580. M. Westm. sub anno 1245.*

For he was Consecrated by the Pope (kk) at *Lyons* A^o Dom. 1245. And if this *Magna Charta* passed by King *Henry*,

(†) See *Cokes* Comment, wherein he rejects many passages, as interpolated additions. See also Bishop *Nicholsons* *English* *Historical* *Library*, Part. 3. p. 170.

(kk) *M. Paris. p. 580. M. Westm. sub anno 1245.*

Henry the Third holds good in the Legislative part, notwithstanding this palpable error in the Historical made therein by the after Lawyers, whose hands it passed thorough, why may not that, which was passed by King *William* the Conqueror do so too, notwithstanding what is alledged against it of the same Nature in this objection? But here let me observe, that in the Copy of *Magna Charta*, which we have here at *Normich* in the Archives of the Cathedral Church, it is *His Testibus Domino Stephano Cantuariensi Archiepiscopo*, &c. which is the truth of the matter. For *Stephen Langton* was then Arch-Bishop of *Canterbury*, and continued so till *July A^o 1228*, when he dyed. From whence it appears, that the Church are better preservers of the Laws, than the Lawyers themselves.

3. It is to be observed, that none of these Interpolations are in the Legislative part of these Laws, but all either in Historical or Political remarks upon them, or in the Interpretation of Words, and Terms, used in them, and therefore whether
these

these Interpolations are in or out, they make no alteration in the Laws themselves, but they do as to their Enacting and Legislative part still remain the same in all the Copies, that are extant of them. For in this they do all of them with exactness enough agree with each other, and no interpolation can be proved here. But

4. There are Copies of these Laws still remaining, in which all the Interpolations above objected are left out. In ^(l) the Cotton Li- ^{(l) Claudius. D. 2.}brary there is a very ancient Copy, which hath not the interpolation in the Chapter *De Danegeldo*, that Chapter ending therein at the words, *in armorum Defensionibus*, without having any thing further added. And *Hoveden*, *Knigh-ton*, and the *Lichfield Chronicle*, altho they all have this interpolation in the Chapter *De Danegeldo*, yet they are without all the rest, that are objected. Indeed the Copies in *Knigh-ton*, and the *Lichfield Chronicle* do not reach so far, ^(m) That ^(m) as where these later come in, is at the having no more than the 16 first Chapter Chapters of *Lambard's Edition* of *De Griene*.
 § 2 these

(n) *Clept-*
tr. A.
 xvi. *Vitel-*
lus. A.
 xiii. 2.
Vitellius. E.
 5. *Ortho.*
 A. xvi. 2.
 (o) In the
 Intro-
 duction
 to the 2d
 Volume
 of his His-
 tory. p.
 81.

these Laws, but *Hoveden* hath them all, and without one word of these last mentioned Interpolations in them. And in the *Cotton* Library there are (n) four Copies of those Laws, and in the *Lambeth* Library a fifth, and Mr (o) *Tyrell* tells us of a sixth in *Bennet* College Library in *Cambrige*, in all which these interpolations are all left out. And so they are also in the best of those two Copies, which *Lambard* Printed from. For his Edition of those Laws being part in *Roman* Letter, and part in *Italic*, he tells us in an Advertisement premised, that he means thereby to let us know, that whereas he printed from two Copies, the one an Old one, and the other a Modern one, what is in the *Roman* Letter is all, that is in his Old Copy, which is the best, and that what is in *Italic*, is all added thereto from his Modern one, which is the worst of the two. And in this *Italic* part only are these last mentioned interpolations to be found in that Edition. And therefore altho the above mentioned interpolations may prove the Copies,

Copies, wherein they are found, not to contain the very Original Text of King *Edward's* Laws pure, and unmix'd, yet they can argue nothing against the Laws themselves, since there are so many other Copies, in which they are all entirely preserved without them.

But, as I have above hinted, the truth of the matter is, there are many more Interpolations in the Copies of King *Edward's* Laws, which are handed down unto us, than are above objected, and that in the best of them, as well as in the worst. For I reckon, that the Original Text, as confirmed by the Conqueror, contained no more, than what was strictly Legislative, and that whatever else is found in any of those Copies, whether they be Historical Remarks, or Political Reflections, or Interpretations of Words and Terms, or Geographical Descriptions (for all these are interspersed in several of them) they are all added, as Commentaries upon the Original Collection, by the hands of those Lawyers, which it afterwards passed thorough. For those

Laws of King *Edward* being the Old *Magna. Charta* of the *Englisb* Government were to the time of King *Henry* the Third in the same veneration in this Land, as the New *Magna Charta* made by him hath been ever since, and therefore every Lawyer had a Copy of them, and according as they have come to us through different hands, so have they had several different interpolations by way of Commentary and Annotation added unto them, yet this doth not prove them spurious, since all of them, how much soever they may differ in the Commentary, all exactly agree in the Text, the Legislative part being exactly the same in all of them, and it is particularly so in that Law of Tithes, which we are now upon, and if this part be pure and uncorrupt, this is all, we are concerned for in this Argument. And this I hope, if thoroughly weighed, may not only be a full answer to all, that is offered by Dr *Brady* against those Laws, but also give satisfaction to Dr *Hicks*, as to what he hath further advanced on this head, who
for

for his great Learning and Judgment in these matters is an objector of much greater consideration, than the other.

As to the 3d mark of spuriousness, which *Selden* insinuates. *i. e.* That the first Copy of those Laws must be false, because written in *Latin*, and the other (*i. e.* that of *Ingulph*) only true, because written in *French* (which he would have to be the only Law Language of *England* since the Conquest to the time of King *Edward* the Third) I answer, if this be of any force, why did he add after this Copy of *Ingulph* in his Notes upon *Eadmer* (where he hath published it) that body of Laws made by King *William* the Conqueror, which we have in the Red Book in the Exchequer, and there publish it as an Authentick Copy of them, since that also is written in *Latin*? And why did he not at the same time declare also against *Magna Charta*, as a spurious body of Laws, since that too is Originally written in the same Language?

But supposing these objections cleared, and that what I have said hath fully vindicated (as I hope it hath as to the Legislative part of it) the truth and authority of that Copy, which we have of King *Edward's* Laws published by the Conqueror in the 4th Year of his Reign, yet since we allow the Copy, which is in *Ingulph* of other Laws under the same Title, published also by the Conqueror in the last Year of his Reign, to be a true Copy too, a Question may from hence arise, which of these two Copies contains those Laws of King *Edward*, that have been so often confirmed by the first *Norman* Kings, and by them, and their Successors for so many ages after sworn to, as hath been above related? If they were the Laws of both Copies together, or those of the first Copy a part, that were thus confirmed, and sworn to, then our Argument holds good. But if they were the Laws of *Ingulph's* Copy only, then all, that I have said from the Laws of King *Edward* for the establishing of the right of Tithes in this Land after the Conquest, falls to the ground,
and

and becomes of no validity. For there is no Law for Tithes in that Copy, and therefore the confirming of that, and the swearing to that will argue nothing for them. That therefore this matter may be fully cleared, I shall make it appear, that the Laws of King *Edward*, published by the Conqueror in the 4th Year of his Reign, were the only Laws, and none other, which were so confirmed, and so sworn to, as is above related, and that from these following reasons.

1. Those Laws of King *Edward*, which the first *Norman* Kings so often confirmed, and which they, and their successors for so many ages swore to, were those, which the *English* were very fond of, and earnestly requested, and desired to have granted unto them, and often contended with violence for, so that they would not be contented, or kept in quiet, till they had them, and made all, that reigned over them, to swear to the keeping of them. And therefore they could not be those Laws, which were published in the last Year of the Conquerors Reign. For those
by

by reason of their great Fines, heavy Mulcts, and Feudal services, were such, as would have proved very grievous, and oppressive to them, which they would never have made that strift for, or with any patience born, had they been put in Execution upon them. But those, which were collected in the 4th Year of that Kings Reign, are of a quite contrary Nature. For the truth of the matter is, Those collected in the 4th Year of his Reign were for the Peoples Liberties, the other were wholly framed for the advantage of the Kings Prerogative. For *William* the Conqueror as he grew in Power and Strength, so he advanced the Prerogatives of his Crown, and (q) not liking those Laws extorted from him in the 4th Year of his Reign, which were for the Peoples Liberty, made this new Collection of Laws in the last Year of his Reign for the advancing his regal Power, and craftily put them under the same Title to make them the better go down with the People, as if these were King *Edward's* Laws also, whereas they were in

(q) M. P.
 ris in vita
 Friderici
 Abbatis
 S^{ri} Albani.

in Truth most of them either Nor-
man, or Feudal Laws, not made for
 the benefit of the People, as the
 others were, but in reality for their
 greater oppression, and heavier ser-
 vitude in extorting the greater Fines,
 Mulcts, and Services from them.
 And therefore, you may be sure,
 these were not the Laws, which
 they so zealously contended for in
 after Reigns, and made all their
 Kings and Queens for so many Ages
 swear to at their Coronations.

2. There is no Copy, or account
 of the Laws of King *Edward* col-
 lected in the last Year of the Con-
 querors Reign, but that only, (r)
 which we have from *Ingulph*, but
 of the other Collection, published
 in the 4th Year of that King, a full
 account is given us in several of our
 Historians, and *Hoveden*, *Knighton*,
 and the *Lichfield Chronicle* give
 us the Laws themselves, and there
 are besides a great many Manu-
 script Copies of them still remain-

is plainly no more, than a Translation of those Laws from
 that Copy of them, which is in *Ingulphs* History.

(r) *neque*
præter In-
gulphum
quis Leges
hæc tra-
didit, neq;
præter
hæc ali-
quam om-
nino, quæ
illius avi
idiomate
Gallico seu
Norman-
nico con-
scribitur,
extare
puto. Sel-
den in No-
tis ad Ead-
merum. p.
189. In
the Cotton
Library
there is
indeed a
Latin Co-
py of
these
Laws
written
in a Ma-
nuscript
of a Mo-
dern
hand,
Vitellius E.
5. but it

ing in several Libraries of this Kingdom, both private and publick. And for this what other account can be given, but that the later long continued in use, and therefore was well known, and carefully preserved, and the other immediately growing out of use was no more regarded, or taken care of? For it being but just before the Conquerors death, that they were published, they were scarce ever put in Execution. For King *William Rufus*, who next succeeded, little regarding any Laws (and it not being for his interest at that time to offend the *English* with the Execution of such rigorous ones, as these were) permitted them to fall to the Ground as soon almost as made, and they were never after revived, and had it not been, that it so hapned, that *Ingulph* was at the Conquerors Court, when they were first enacted, and brought a Copy of them to his Abbey, they had drop'd into absolute oblivion almost as soon as made, and had never more been heard of, no other Writer beside him making the least mention of them, or any other Co-
py

py of them being any where preserved, except that only, which we have in him, which could never have hapned, had they been the Laws, which were so often contended for by the *English*, and for so many ages sworn to by all that Reigned over them. And therefore they must be those collected in the 4th Year of the Conquerors Reign, that were the Laws of King *Edward*, which were thus contended for, and thus sworn to, and not the others.

3. None could better know, what Laws were here in use, and what not, than *Ranulph de Glanvil*, who was the eminentest Lawyer of his time, and High Justitiary of *England* under King *Henry* the Second, and by virtue of that office chiefly concerned to put the Laws in Execution. But he gives us those Laws of King *Edward* published in the 4th Year of the Conqueror to be (s) the true *English* Laws then in force under that title in his time. And therefore they only must be those Laws of King *Edward*, which were received here for the Law of the

(s) Hoveden p. 600.

where he saith of them, that they are Leges, quas Anglicanas vocamus.

(t) *De*
Gestis An-
glorum.
 lib. 2. c.
 11.

the Land after the Conquest, and which all our Kings and Queens have ever since sworn to at their Coronations till the New Coronation Oath was lately made. And that passage of *William of Malmfbury*, where speaking of these Laws of King *Edward*, he says, (t) *in quarum Custodia etiam nunc tempore sub nomine Regis Edwardi juratur*, cannot be understood of any other. For he there speaks of those Laws as made by former *Saxon* Kings, and under the name of King *Edward* sworn unto by the Kings of *England*, who Reigned in his time. And these Laws of King *Edward*, which were collected in the Fourth Year of the Conqueror, may all be traced out among the old *Saxon* Laws still remaining, which cannot be said of the other, or at least of very few of them, without such wrestings, as a fair Comparison will scarce admit.

4. *Roger Hoveden*, who gives us in his History the Collection of King *Edward's* Laws made in the 4th Year of the Conquerors Reign to be the true *English* Laws, and not that made in the last Year of his Reign,

Reign, lived in the Reigns of King Stephen, King Henry the Second, King Richard the First, and King John, when the greatest strift was about these Laws. And therefore he could not be ignorant, what those Laws were, though he had not had so good a Guide, as *Ranulph de Glanvil*, to direct him herein. For he was a person of no small consideration in his time, having been a Domestick of King Henry the 2d, and after his death publick Professor of Divinity in the University of Oxford.

III. As to the 3d Objection, it is levyed, not so much against the first Copy of King Edward's Laws confirmed by the Conqueror, as against the Law of Tithes therein contained. And it is raised for this purpose by (u) *Selden*, who, to make way for his wild conceit of the Original of Tithes in England from the Arbitrary Consecrations of the Owners of the Lands, from whence they arose, will have it, that, supposing the first Copy of King Edwards Laws to be an Authentic true Copy, and the Law of Tithes, which

(u) History of Tithes ch. 8. 9, 10 & Review upon the 8th.

is

is therein, to be a part of it, yet this Law, as well as all others afore made for the payment of them, being little obeyed, fell into disuse, as soon as made, and became all antiquated by their non observance, and therefore could not found any of that right to them, whereby they are now claimed in this Land. This, as to the Laws for Tithes made before the Conquest, (as I have afore taken notice of) he hath confidently said, without bringing any thing at all to make it good, but for the times immediately following the Conquest he (*w*) offers at two Proofs.

(*w*) History of
Tithes c.
10. p. 279.

The 1st is from that Law of Tithes in the first Copy of King *Edward's* Laws, which we have above recited in this Chapter. For there it is said, that many did then detain them. And the second is from Doomesday Book, wherein he saith Tithes are very rarely mentioned to belong to Churches, and therefore (he argues) they were, when Doomesday Book was made, as rarely paid.

As to the first Objection, I must acknowledge, the words, on which it is founded, are in the Law. For

I have recited them with that Law in this Chapter. But it is to be observed 1st That, altho' I take these words not to be part of the Original Text, but to have been added by some after Interpolator, as an Historical Remark upon the Law, yet, to leave Mr *Selden's* Argument in its full Strength, I am contented to allow them, as if they had certainly been in the Conquerors Collection, but then they must relate only to the times preceding that Collection, and not to those after.

2. That the words, taking them with those, that follow, suppose Tithes to have been due by Law before. For therein it is said, that they had been afore granted by the King, Lords, and people, that is in full Parliament.

3. They ascribe the Cause of the Non-Payment of them, not to the Failure of the Law, but to the Neglect of the Parish Priests in not taking due Care in the Executing of the Law for the recovering of them, and blame them for it.

4. They do notwithstanding condemn those, that detained them, censuring it to be done by the In-

T.

stinct

stinct of the Devil. 5. That many even now a days, when it is acknowledged on all hands, that the Laws for Tithes are in full Force among us, do still by the like Instinct of the Devil do the same thing, and ever will do so, as long as the Devil hath any influence over Mankind. And therefore 6thly, the doing of it, as here said, cannot antiquate any Law for those Tithes, but doth rather prove the contrary. For as long as it is acknowledged to have been done by the Instinct of the Devil, it must have been done wrongfully, and therefore that Law must have been still in force, against which the wrong was done, otherwise it would have been no wrong at all (I mean as to the *Quota pars*, which depends on the Law of Man, not as to the sufficient maintenance, which is from the Law of God.) And indeed if every Law, which is broken by many through the Instinct of the Devil, were to be judged antiquated thereby, no Law could be of any force to controul the Devil's Empire among us, since there was never yet any Law made for the
command-

commanding of that which is good, or the prohibiting of that which is evil, but he soon finds many ready enough to be led by his Instinct to break it, especially if it be of such a Nature, as greatly thwarts his Interest, as that of the Law of Tithes is. For by them are maintained a large body of Men, whose whole business it is to oppose and destroy that Interest of his, which otherwise would soon grow too prevalent in this World. And therefore as he will (you may be sure) be ever sedulous to tempt Men to detain this maintenance from them, so he will always have a Success answerable hereto among the corrupt part of Mankind, as long as he hath any power remaining in this World. And they that will serve the Devil's Interest cannot do it more effectually, than by hearkening to him herein. But still tho' they do hereby break the Law both of God and Man, yet they can extinguish neither of them by so doing.

That a Law grows antiquated by disuse, it then only is, when by reason of some inconvenience found

in it the Government absolutely drops the Execution of it, and every body else, that hath an Interest therein, doth the same, and such a general disusage, when long continued, carrying with it an Implication of a general consent for its abolition, the Law becomes obsolete, and extinct thereon. But this cannot be said of the Law, we now treat of. For tho' many might detain their Tithes at the time when said, yet the Clergy never drop'd their claim to them, or the Government the Execution of those Laws, whereby they were then due. For it doth in this very Law, from whence the objection is drawn (supposing that Clause to be part of the Law, as Mr. *Selden* says) blame the Clergy for not pursuing their claim, condemns those of the Laity, who took this Advantage to detain them, censures them to have done it by the Instinct of the Devil, and makes and enacts this Law anew of purpose to prevent it for the time after. More could be said on this Head, but it would be too tedious further to traverse so groundless an Argument.

As

As to Mr. Selden's second Argument, that Tithes were rarely paid in the Conqueror's time, because they are rarely mention'd in Dooms-day Book, if this proves any thing at all, it must prove, that all those Churches in *England*, which are there mentioned without their Tithes, had no Tithes at all then belonging to them, but there being of a great number of those Churches innumerable Evidences to the contrary from all the Records of those times, this manifestly shows that it proves nothing at all. But

The truth of the matter is, Tithes were so far from being extinguished in those times, that Men were then inclined to a Superstitious nicety and rigour in the discharging themselves of this Duty, rather than to that Sacrilegious Suppression of it, which this Objection supposeth. For when *Pope Gregory the Seventh* in the 8th Year of the Conqueror's Reign published a Decree against the Married Clergy, wherein he commanded, that none should make use of them, or own them as Priests, till they had put away their Wives,

(ex M. Pa-
ris. lib.
Anno
1283. p. 7.
E. de Di-
vino Col.
486.

and this was understood to be against
paying them Tithes, as well as against
joyning with them in any of the Di-
vine Offices, *Matthew Paris* tells us,
(2) that the People, where their Parish
Priests were Married, thinking them-
selves prohibited to pay them their
Tithes, and not knowing how else to
be discharged of them, rather chose
to burn them, than keep them to
their own use. And this is to be under-
stood of the *Normans*, as well as the
English. For the former being Chri-
stians, as well as the other, and e-
qually used to the payment of Tithes
before their coming hither (of
which *Ordericus Vitalis* gives us a-
bundance of Instances) that Revo-
lution made no alteration in this
matter, that is as to the payment of
them by the Laity, but that was
continued as duly after the Con-
quest, as it was before, as the vast
number of Appropriations, which
were made of Tithes in that Reign
do abundantly show. For had they
not been first settled on the Parochial
Churches, and duly paid to them,
they could not have been from thence
Appropriated to Religious Houses.
And

And as to the *English*, how they stood affected to the payment of them, and how necessary they then thought them for the support of their Ministers, and their Religion, may be understood from this, that *William the Conqueror*, when he collected that Body of Laws of King *Edward the Confessor*, which he published in the 4th Year of his Reign of purpose to please the *English*, and gain their Favour for his firmer Settlement on the Throne, made this for the payment of Tithes one of them, and was more particular and express in it, than in any other of that Collection.

And thus far having shown in this, and the former Chapter, how the Civil Right of Tithes here begun with the Monarchy it self, as having been first settled by *Ethelwulf*, the first Hereditary Monarch of this Land; How it was afterwards continually confirmed, and established by the Laws of all his Successors to the Conquest; How these Laws were all revived by the Conqueror in the Grant, which he made to the People of *England* in

the 4th Year of his Reign, which was the Original Contract of the *Norman* Government in this Land; How, that this Grant under the Title of King *Edward's* Laws having been sworn to by all the Kings and Queens at their Coronations, that have here Reigned from the Conquest to the Reign of King *William the Third*, the Law of Tithes, as being a Fundamental Article of that Grant, hath been also sworn to by them; And how that therefore this Right is built upon the same Foundation with the Government itself, as being one of the Fundamental Articles, on which it was first erected, and hath ever since stood; I hope I have said enough fully to prove, that this Right, as now enjoyed by the Clergy of this Land, is held by as strong, as firm, and as ancient a Tenure, as any other Right whatsoever in this Kingdom. And that therefore every Minister of a Parish by the Fundamental Law of the Land (without considering what further Obligation the Law of God, and the Law of the Church doth lay upon us in this matter) hath as
good

good a claim to this Tenth part, as any Owner of Land whatsoever can have to the other Nine.

But although the Great Revolution, which here hapned on the Conquest, did not take away Tithes, but left all the Laws, which were afore made for the payment of them, still to continue in the same Force, yet it brought in several usages, which caused great alterations, and abuses in the distribution of them, and such were Lay Collations, Appropriations, Infadations, Exemptions from Tithes, Portions, Pensions, Donatives, and such like. But concerning these I purposing fully to treat in the next Part, which is intended of this work, if it please God to give Life and sufficient Ability of Health to finish it, I shall at present from what hath been said only infer these following Particulars, and so conclude.

I. Since Tithes were by so many Laws settled here by the *Saxon* Kings from the first beginning of their Monarchy in this Land, and these Laws being digested into the Laws of King *Edward the Confessor* were confirmed,

confirmed, and ratified with them by King *William the Conqueror*, in manner as above related, there can be no room left for *Mr. Selden's Arbitrary Consecrations*. For the time, which he allots for these Consecrations here in *England* is from the Year 1000 to the Year 1200. But if all Tithes were here settled long before by the Law of the Land, and by virtue of that Law universally paid throughout the whole Realm during all the time mentioned, as well as ever since, as I have above shown, there could be nothing left to be then arbitrarily done in this matter. All the Charters and Grants, which he brings to prove this wild conceit of his (and this is all the Proof, which he offers for it) are no more, than Grants of Appropriations, which in those early times after the Conquest (from whence he brings them) while (a) Patrons had the Collation of the Clerk, as well as the Advowson of the Church, were granted in much a more absolute Form, than they were afterwards, when Episcopal Institution came in, and all Ecclesiastic's, and Religious

(a) See in Dr. *Kennet's* case of Impropriations a Form of a Lay Patrons Collation Append. Num. 4.

Religious were forbid to receive
 (b) either Churches or Tithes from
 Lay hands without the Consent of
 the Bishop of the Diocess. Till
 then indeed (c) Patrons had such an
 Arbitrary Disposition of their
 Churches, and the Tithes, and o-
 ther Endowments belonging to
 them, that on all Vacancies they
 could dispose of them as they
 thought fit to any, that were by Law
 then capable of holding them, and
 this in Parcels, as well as in whole.
 And hence it is, that in those days
 we find so many Churches with
 their Tithes, and so many Portions
 of Tithes without their Churches
 granted to Religious Houses, Ca-
 thedrams, Colledges, Hospitals, and
 other Religious, and Ecclesiastical
 Corporations. For all these being
 then by Law as capable of holding
 Churches and Tithes, as the Parish

(b) Con-
 cil. Lond.
 A^o 1126.
 Cap. 4.
 Concil.
 Westmo-
 nast. A^o
 1127.
 Cap. 9.
 Concil.
 Westmo-
 nast. A^o
 1138,
 cap. 5.
 Concil.
 Lateran.
 sub
 A^o 1179.
 C. 9. Con-
 cil. La-
 teran. sub
 Innocen-
 tio 3^o
 A^o 1215.
 Cap. 61.
 (c) In the
 Lateran
 Council
 held A^o
 1179.

under Alexander the 3d, there is this Complaint. *In tantum quorundam Laicorum processit audacia, ut Episcoporum Autoritate neglecta clericos instituunt in Ecclesiis, & removeant etiam cum voluerint; Possessiones etiam, atq; alia bona Ecclesiastica pro sua plerumq; voluntate distribuunt. Can. 14.* for the reformation of which the same canon decreeth, *ut Presbyter, sive clericus, qui Ecclesiam per Laicum sine proprii Episcopi autoritate receperit tenendam, communione priuatur, & si persistuerit, a Ministerio Ecclesiastico, & ordine deponatur.*

Priests,

(d) Mr. Selden being aware, least it might be said, that the grant of those Tithes, which he would have to be Arbitrary Consecrations, might be the grant of Infædated Tithes, which the Owners were allow'd to restore to what Church they pleased, Priests, Patrons had a Liberty in those days to collate to their Benefice, or Tithes any of those, as they thought fit, and that not only on Vacancies, but also before they should happen, by way of Reversion. And as long as Patrons had this Power, they granted the Churches, and Tithes of their Advowson in Charters of Appropriation in very absolute Terms, as if they had been their absolute Inheritance, calling them *Ecclesias suas*, & *Decimas suas*, i. e. *their Church, and their Tithes*, (as indeed sometimes they were, when they came to them (d) by Infædations from the Religious Houses, or other Ecclesiastical Corporations, to which they had been appropriated.) And from the Style of those Charters it is, that Mr. Sel-

den thereby his whole Argument for his Arbitrary Consecrations might be eluded, seems unwilling to allow, that there were here any Infædated Tithes at all before the dissolution of Monasteries in King Henry the 8th's Reign. For he says, that *Although in other States these Infædations or Conveyances into Lay hands of perpetual Right of Tithes were very ancient, and frequent also, yet no such certain or obvious Testimony of their Antiquity is in the Monuments of England, as can enough assure us, that they were before the Statute of Dissolutions* in

in any common use here. *History of Tithes*, cap. 13. p. 396. But nothing is more certain, than that before the Council of Lateran held under Innocent the 3d, A^o 1215 (wherein they were forbid under the Penalty of Deprivation of Christian Burial,) there were as many Infædations in England, as in any other Christian Country. For most of the Papal Confirmations granted to Monasteries here in England from the Conquest for 300 Years after have a Clause inserted allowing them to redeem and annex to their Convents any Infædated Tithes. *Bracton* also makes mention of their being in England, lib. 5. c. 12. p. 409. and so doth *Lindwood*, *De locato & conducto*, C. licet bona. v. portiones; & *Matthew Paris* in *vita Roberti Abbatis St Albani* p. 1016. and abundance of other Authors. The Occasion of their first coming in hither was by *William the Conqueror's* subjecting all Ecclesiastical Tenures to Military Services. From that time Monasteries were forced to maintain Soldiers for the King's Service, (and the Abbey of *Bury* had 40 charg'd upon them,) for whose maintenance they were forced to create Military Fees, and this they did out of their Appropriated Tithes, as well as their Lands. And this was the only Legal way of then making Infædations of Tithes here, although they afterwards crept in by many other ways not Legal. But after the Canon of the Council of Lateran above-mentioned denyed Christian Burial to all such, as should detain those Tithes from the Church, they were all again restored in England, though France, and Spain, and Italy, interpreting the Canon only to extend to the forbidding of new Infædations, retain all the old, i. e. all that were made before that Council, even to this day.

den frames his Notion, as if all those Grants were the Original Creation of those Tithes, which they granted. They were indeed arbitrarily enough conferred in those days, when they were by Patrons thus disposed of, but not then first

con-

(e) That this was the usage of the Normans before they came hither, appears by abundance of Instances in *Ordericus Vitalis*, but that there was any such way here, till they arrived is not prov'd, though some are pleased to say it. The Charters in *Ingulph*, if they be not spurious, where they confer Churches on the Monastery of *Crowland*, grant only Advowsons, not Appropriations.

consecrated. The Law had sufficiently done this before, and made them due of common right throughout the whole Kingdom to the Rector of every Parish, till the Normans brought in this way of alienating them from them by (e) Appropriations. And therefore these Grants instead of being Arbitrary Consecrations (as *Mr. Selden* calls them) were in Truth Arbitrary Dedications. For thereby Patrons gave Tithes from the Church, that is from the true use, which the Church had of them (which was the maintenance of the Parochial Clergy) to a false use for the maintaining of idle People in Cloisters, of which the Church had no use or need at all. But about the Year 1200 this Power of Patrons in a great Part ceasing, and their Grant for Appropriations (the Appropriating Act being thenceforth wholly in the Bishop) being no longer ne-

cessary

cessary thereto any otherwise, than as a Presentation is for an (f) Institution, Patrons did here put an end to the granting of Appropriations of Churches or Tithes in such absolute Terms as formerly, and therefore here Mr. *Selden* puts an end to his Arbitrary Consecrations too, which plainly shows, that they were no other than such Appropriations before that time made by the absolute Power of the Patrons. Had the right of Tithes here grown up from such Arbitrary Consecrations, as Mr. *Selden* asserts, why among all his Instances doth he not bring as much as one of such a Consecration of Tithes in a Parish made to the Parish Church? Is it likely, that those, who had such Tithes in their Power Arbitrarily to Consecrate, should grant them all from their Parish Church, and none to it? It seems most likely, that their first Inclinations should be to their own Church, where they attended Divine Service, and received the Sacraments. And therefore had the civil right of Tithes come this way into the Church, there must have

(f) The making of an Appropriation was in truth no more, than the instituting to the Benefice a Corporation, which was an Immortal Parson instead of a single Clerk, who was a mortal Parson. For tho' single Persons dye, Corporations do not. And from hence came the Term of *Persona immortalis*, which is found in some ancient Ledger Books.

been

been some Instances of the Consecration of them to the Parish Church, where they arose, as well as to other Churches out of the Parish, and would Mr. *Selden* have brought but one such Instance, it would have made more for his purpose, than all the rest put together. And certainly such he would have brought, were there any such to be found, and since there can none such be found, it is a sufficient Proof, that there were never any such; But that all Parochial Tithes were from the time of King *Ethelwulph* due of common right to the Parish Church, and that all those Grants, which Mr. *Selden* calls Arbitrary Consecrations of Tithes, were no other, than Arbitrary Alienations, which according to the corrupt usage of those times were then made of them from the Parish Church to Religious Houses, or other Spiritual Corporations. And it may be further asked, how came it to pass, that all Rectors of Churches were allowed the Plea of common right against Religious Houses for all Portions of Tithes possessed by them in their Parishes,

Parishes, till they produced their Special Grant for them, or proved a prescription that supposed it, if before such Grant they were not by common right in them? And yet of all the Instances, which Mr *Selden* brings, he seems to put the greatest stress in those Portions of Tithes for the making out of that point, which he contends for.

II. It appears by the Laws above recited, that the Parochial Right of Tithes, whereby every Minister of a Parish claims all the Tithes arising within his Parish, as annexed to his Church, is very ancient. For King *Edgar's* Laws enjoyn, that every one pay his Tithes to the Mother Church, to which he belongs, and provide, in case a Daughter Church be built within the same Parish, how much of the Tithes shall be paid to the New Church, and how much to the Old. And the same Laws also ordain, that in case of non-payment the Minister of the Parish should make his claim before the Kings Reve and the Bishop (who were in those days the Ordinary Judges, that distrib-

buted Justice in every County by joynt Authority together) and that the said Reve and Bishop should force the detainer to pay his Tithes to the Church, to which they did belong. And the Laws of King *Etheldred* and King *Canute* Command the same thing, and so do also the Laws of King *Henry* the First, as they are above recited. And therefore that saying, which occurs so frequently among the Common Lawyers, and is so often found in their Books, *(b) That till the Council of Lateran no Parochial Right of Tithes was here fix'd in England, but that before that Council every Man was at Liberty to pay his Tithes to any Spiritual Person, as he should think fit, cannot be true.* I do acknowledge, that before the Council of *Lateran* held under *Innocent* the Third, A^o 1215. (which is the Council they mean) Patrons took a Liberty of appropriating the Tithes of their Advowson to what Spiritual Corporation, they pleased, as well sole as aggregate. And so also that before the Council of *Lateran*, held under *Alexander* the Third

(k) Coke in the Bishop of Winchester's Case in the 1d Part of his Reports. p. 44 b. Dyer 84 Moor and others.

Third A^o Dom. 1179 the Owners of Infadated Tithes (i) did the same thing with their Tithes, and that with much more reason and right on their side, because they were their own Inheritance. But these two Councils did put a stop to both those usages, forbidding (k) thenceforth any Infadated Tithes to be restored any otherwise than to the Parish Church, without the consent of the Bishop of the Diocese, or any (l) other Tithes to be appropriated without the like consent of the Diocesan first had for the same. But that from the time, that the civil Right of Tithes was here by Law established in this Land, there was ever by Law, or a general practised custom, such a Liberty allowed the Parishioners, as is said by our Lawyers, of paying the Tithes arising from their Lands to what Spiritual Person they pleased, before that Council of Lateran which they mention, I utterly deny, and that for these following Reasons.

(i) Hence that saying of Lindwood. Bene poterunt Laici Decimas in feudum retinere, & eas alteri Ecclesie vel monasterio, dare ante Concilium Lateranense, non tamen post. De Locato & conducto C. licet bonæ, v. portiones. (k) Prohibemus, ne Laici Decimas cum animarum suarum periculo detinentes in alios Laicos possint aliquo modo transferre. Si quis vero receperit, &

Ecclesie non reddiderit, Christiana Sepultura privetur. Concil. Lateran. sub Alexandro 3. C. 7. Extra De Decimis C. Prohibemus.

(l) In Lateranensi Concilio (sc. sub Alexandro 2. c. 9.) noscitur fuisse Prohibitum, ne quilibet Regularis Ecclesias seu Decimas

*sine consensu Episcoporum de manu presumant recipere Laicali, nos
id fortius inhibentes Transgressores condigna curabimus animad-
versione puniri. Concil. Lateran. sub Innocentio 3. C. 62. Extra
De Præbendis & Dignitatibus C. in Lateranensi.*

1. Because of the absurdity of the thing. For what could all the Laws, that were made for Tithes, signify, if no one was certainly invested in a right to them? In this case no one could claim them, and in case of non-payment no one could make proccesse in Law for them, and consequently no one having a special right to demand them, it must have followed in practice, that what was thus payable to every Spiritual Person, would in fact and reality be paid to none at all, and no Law on such a foot as this could have signified any thing to prevent it.

2. Because of its inconsistency with other received usages in those times. For before the said Fourth Council of *Lateran* from the time of the Conquest there were in this Land many Appropriations, whereby the Tithes of whole Parishes were assigned to Convents, or other Spiritual Corporations, and also many Infadations, whereby the Tithes of whole Parishes were
granted

granted in Fee to Laymen. But what would all these Appropriations or Infadations signify to those, who had them, if the Parishioners were still left at liberty to pay their Tithes to any Spiritual Person, they should think fit? For in this Case might not all the Tithes be paid from them to such Spiritual Persons, as the Parishioners liked better than them, and so they left to receive nothing at all? We may be assured there was a certain right to these Tithes settled by Law in the Parochial Churches, before either greedy Monk, or Sacrilegious Layman would desire to have them from them, for without such a certain right, whereon they could demand, sue for, and recover them by Law, they would have been of no use or benefit to them. And they could not by their Original Grants have any such certain right in those Tithes conveyed to them, unless they were afore certainly settled by Law in the Churches, from whence they were derived. For no more was then given to either of them, than what was in the Parochial Churches before. But all these In-

tadations, and almost all these Appropriations having been made before the Council above-mentioned, and a great number of the later as Early as the Reign of the Conqueror, this must necessarily prove the Parochial right of Tithes to have been as early also; and to have been not only before the 4th Council of *Lateran*, but also before the Conquerors Reign, by the Law of the Land fully settled in every Parish Church, as hath been above sufficiently made appear from the *Saxon* Laws, that I have recited.

(m) History of
Tithes. c.
13.
(n) Institutes Part
2. upon
the
Statute
of the
18. Ed. 3.
c. 7. p.
11.

3. There is no such Canon in the Council of *Lateran*, which they quote for this matter, or in any other Council of that name, and this (m) *Selden* acknowledgeth; (n) and *Coke* being convinced of it doth retract in his Institutes, what he had afore in his Reports said of this particular. But being still resolved to hold fast the Conclusion, notwithstanding they are forced to foregoe the Premises, they would fix the Argument upon another bottom, and therefore instead of a Council of *Lateran* under Pope In-

nocent the Third, they produce a Decretal Epistle of the same Pope to make out, what they would have, and that Epistle being dated from the *Lateran* Palace in *Rome*, they say this occasioned the mistake, that was made in this matter, in ascribing to the *Lateran* Council, what was effected by this *Lateran* Epistle from the same Pope, under whom that Council was held, but that still the matter in substance holds true, that before that Council of *Lateran* A° 1215. Men might give their Tithes to what Spiritual Person they pleased, because it was about the time of that Council, that this *Lateran* Epistle took effect here in *England* for the altering of that practice. So they will have the *Lateran* Council to be named in this matter only to denote the time, when the alteration was made, and not as the efficient cause, that brought it to pass. It must be acknowledged that there is such an Epistle still extant in the Works of the said Pope *Innocent* directed to the Arch-Bishop of *Canterbury*, and bearing date from the *Lateran* Palace

(o) Perve-
nit ad au-
diendam
nostram,
quod multi
in Diocefi-
bus Deci-
mas suas
integras,
vel duas
partes ip-
sarum non
illis Ec-
clesiis in
quibus
Parochiis
habitant,
vel ubi
prædia ha-
bent, & a
quibus Ec-
clesiasticæ
percipiunt
Sacramen-
ta, persol-
vunt, sed
eis alijs
pro sua di-
stributione
voluntatis,
&c. bene-
ficijs.
Epistol.
De decretis.
lib. 2. c. 2.
452. *Eccl. Canon.*

in Rome, wherein he tells him, that
(o) he had received information,
that many in his Diocesse did pay
their Tithes, either all, or two parts
of them, not to the Parish Church,
where they dwelt, or had their
Lands, and where they received
the Sacraments, but to other
Churches, as they pleased, and then
condemning this usage commands
him to reform it. To which I an-
swer. 1st, This may be understood
of the Patrons power of appropri-
ating, and thus (p) *Parneing* under-
stood all, that the Lawyers say of
this matter. For he tells us (q) in
the Year Books, that it was the Pa-
tron only, not the Parishioner, that
had this power, as they say, before
the Council of *Lateran* to give his
Tithes from the Parish Church to
what other Church he pleased, that
is the Tithes of his Advowson,
either in whole, or in part, by ap-

(p) He was a Famous Lawyer in the Reign of Ed-
ward the Third, and was at length promoted by him to
be Lord Chancellor of England.

(q) 7. Edw. 3. f. 5. Cores Institutes Part 2. p. 61. in
the Marg.

appropriating of them to such other Church, as he should think fit, whether Conventual, Collegiat, Cathedral, or of other denomination. For this power Patrons had till they were restrained by the Canons (and (r) especially by the 62d Canon of this Council of Lateran) from doing any thing more herein without the consent of the Bishop.

(r) *Extra De Præben-
dis & Digni-
tibus
C. In La-
teranensi
Concilio.*

2. What is contained in this Decretal Epistle, is spoken only as of a corruption arising in the Diocese of Canterbury, and not of any usage or practice legally allowed throughout the Kingdom, and it must be acknowledged, that there was such a corrupt usage then growing in this Land through the artifice of the Monks, whereby many were induced to give their Tithes from their Parish Ministers to them on the pretence of their being Alms, which they might dispose of, as they thought fit. And this was a point, which they laboured hard to carry (and it was afterwards as (s) hardly pursued by the Begging Fryars) that they might thereby draw all Tithes to themselves. For all Tithes be-

(s) See
*Seldens
History
of Tithes.
C. 7. §.
4.*

ing

(o) Peruenit ad audiendam nostram, quod multi in Diocesi tua Decimas suas integras, vel duas partes ipsarum, non illis Ecclesijs in quibus Parochijs habitant, vel ubi pradia habent, & a quibus Ecclesijs percipiunt Sacramenta, persolunt, sed eis alijs pro sua distributione voluntatis, &c. Innocentij 3. Epistol. Decretal. lib. 2. c. 9.

452. *Epist. Canon.*

(p) He was a Famous Lawyer in the Reign of Edward the Third, and was at length promoted by him to be Lord Chancellor of England.

(q) 7. Edw. 3. f. 5. *Coxes Institutes* Part 2. p. 61. in 2^o Margin.

in Rome, wherein he tells him, that (o) he had received information, that many in his Diocese did pay their Tithes, either all, or two parts of them, not to the Parish Church, where they dwelt, or had their Lands, and where they received the Sacraments, but to other Churches, as they pleased, and then condemning this usage commands him to reform it. To which I answer. 1st, This may be understood of the Patrons power of appropriating, and thus (p) *Parneing* understood all, that the Lawyers say of this matter. For he tells us (q) in the Year Books, that it was the Patron only, not the Parishioner, that had this power, as they say, before the Council of *Lateran* to give his Tithes from the Parish Church to what other Church he pleased, that is the Tithes of his Advowson, either in whole, or in part, by ap-

propriating of them to such other Church, as he should think fit, whether Conventual, Collegiat, Cathedral, or of other denomination. For this power Patrons had till they were restrained by the Canons (and (r) especially by the 62d Canon of this Council of *Lateran*) from doing any thing more herein without the consent of the Bishop.

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(s) See *Seldens History of Tithes. C. 7. §. 4.*

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ing held by the Tenure of *Frank Almoyn*, i. e. Free Alms, and when a Parochial Benefice was conferred on a Clerk, it being said in the Stile of those times to be given (t) *in Eleemosynam*, i. e. in Alms, to distinguish it from an infadated Benefice, which was always granted *in Servitium militare*, i. e. in Military Service, the Religious from hence argued, that all Tithes were Alms, and that it was in the power of every Man freely to give his Alms, as he should think fit, and that they deserved them better, than the Parish Priests, and it went so far, that (u) some of them upon this Notion bound their Tenants in their Copies, Leases, and other Grants of their Land to pay all their Tithes to them; and to extinguish this growing Corruption was the whole Intent of this Decretal Epistle.

As to what is further brought for the support of this Doctrine of the Lawyers out of the Council of *Lyons* held under *Gregory* the 10th, in the Year of our Lord 1274, it is on all hands acknowledged, that there is no such thing in that Council, but that

(t) *M. Paris in vita Roberti Abbatis S. Albani.*
p. 1016.
Alexand.
3. Ap. 1.
Ep. 42.

(u) *Concil. Lateran. 4. Can. 56.*
Extra de Pactis C. pleriq;

that what is said hereof is all a mistake, either through Ignorance, or design, made by those (w) Monkish ^{(w) Randal Higden, Henry Knighton, and Thomas of Walsingham,} Historians, who relate it, and therefore I need not say any more of it.

But the thorough discussion of this, as well as the former inference, being that, which is properest for the next Part of this work, I do at present only give some few hints on both these heads of what will there by a thorough examination be made more fully appear.

III. Altho' according to what I have laid down Tithes be not due to the Evangelical Ministry, as to the *quot a pars*, by a positive Divine Law, in the same manner, as they were to the Levitical Ministry, yet when settled by Law in any Christian State, they stand upon as good a bottom, as if they were so due, and it is altogether as much sin against God, as well as his Ministers, to detain them. For allowing what is above, I hope, fully made out, and is generally allowed by all, that a sufficient maintenance for the support of God's Worship, and those who minister

Ut nulli hominum deinceps liceret decimas suas ad libitum, ut antea, ubi veller assignare; sed matri Ecclesie Omnes Decimas persolvere. But there is no such Canon to be found in any Copy of that Council now extant.

nister in it, is due of Divine Right by the Law of God declared by the voice of Nature to all Men, as well as positively enjoined us in the Gospel of *Jesus Christ*; and that it is left to the Civil Government of every Country to determin the *quota pars*, i. e. what part of every Man's Substance is to be set apart for this purpose; it must follow, (x) that when the Government hath determined this *quota pars*, and by a Law settled it to a Tenth in any Christian State, this Tenth part must thenceforth be as much due, as if God had immediately commanded it himself. Because when they have determined it, to whom God hath left it to be determined, whensoever it is determined, it is done by his Authority, and therefore is altogether as valid, as if he had done it himself. In the 8th Commandment, which forbids the taking away of another Man's Right, it is left to the Laws of every Country to determine, what that Right is, and yet notwithstanding, when any Man's Right is thus determined, it is as much a breach of this Commandment of God to take

(x) This I have afore said elsewhere in my Tract on the Award made by King Charles the First, for the settling of a maintenance on the Ministers of the City of *Nor.* *Wich.* p. 19.

it away, as if God had determined it himself. And so in the Law, which forbids the with-holding a sufficient maintenance for the support of God's Worship and Ministers (which all own to be of Divine Appointment for all Ages) altho' it be left to the civil Government of every Country to determine the Part, which all are to pay; yet after the Government hath determined this part, it is as much a breach of God's Law to detain it, as if God had determined it himself. God did indeed in the *Jewish* State (wherein he acted as National Governor of that People) determine himself the particular Portion, which was to be set apart for the support of his Worship, and Ministers, and so did he also therein, what every Man's particular Property and Right should be. For he distributed it by Lot in the first division of the Land, and made all the Laws, by which it was afterwards to be governed, and determined, and yet this doth not hinder, but that still the 8th Commandment is in its full Force as much now, as in the *Jewish* State.

And

And altho' now, not God's Laws, but Man's Laws do determine in every State, what every Man's Property is; yet it is as much Theft now to take it away, as ever. Neither can it hinder, but still the Law for the support of God's Worship and Ministers is in the same Force as ever; And though it be now, not God's Law, but Mans Law, that determines it to a Tenth part of our Yearly encrease, yet still it will be as much Sacrilege now to detain that Tenth part, as ever it was, when God commanded it himself. So that whether it be God or Man that appointed the *Quota pars*, it comes all to the same pass, as long as it is allowed (which all agree in) that the Law of God doth in every place, and through all ages, require a sufficient Maintenance to be set apart for the support of his Divine Worship, and those that Minister it. For if God's Law Commands a Maintenance in general, and leaves it to every State to determine the particular portion, when the State hath determined this portion, it is as much due by that Law of God,

as if God had determined it himself, in the same manner, as when an Act of Parliament is made for the raising of a Tax, and it is left to Commissioners to assess every Mans particular *Quota*, that, which the Commissioners do by virtue of that Act assess, and lay upon every Man, is as much due by that Act, as if it had been particularly specified, and in expresse terms set down therein, and it will be interpreted altogether as great a breach thereof not to pay it. For in the same manner in this case the Governors of every State are as God's Commissioners to assess and determine the *Quota pars*, and therefore when they have determined it, the part so determined and appointed by them becomes the Portion, which is thenceforth due by the Law of God in as full and valid a manner, as if he the Supreme Law-giver had in the said Law stated it and determined it himself. For what any one doth by his Delegates fully authorised for that purpose, is in all construction of Law and Reason of the same force and validity, as if he had done it himself. And therefore allowing this,
that

that a sufficient Maintenance is commanded by God's Law in general (and so much no rational Christian will ever deny) and that it is left to the Governors of every State to appoint the particular Portion, it will follow, that when they have determined this portion, they have done it by God's Authority, and therefore that part, which they have appointed must be as much due by that Law of God, as if God had therein determined and appointed it himself. And consequently in every place it must be as much a breach of that Law to detain it, and every Man will load his Soul with altogether as great a guilt of Sacrilege, that is guilty herein.

IV. Though the appointing and settling of the portion, which is to be set a part for the support of God's Worship and his Ministers, be in the Civil Government, and they have therefore the power to distribute, and order it, and also upon just occasions to alter and change the same, yet still they are to remember, that by the Law of God it is always to be made up to a sufficient

cient Maintenance. For the Law of God commands a Maintenance for his Ministers, and the nature of the thing requires, that it be such, as will enable them to answer the end, for which they are appointed. For it is for this end only, that a Maintenance is to be allotted them, and consequently it must be in such a proportion, as to enable them to attain that end in the faithful discharge of all the Duties, which are to be performed in order to it. Thus much therefore being due by the Divine Law, and the Execution of this Law being left to the Civil Government, it must from hence follow, that wherever the Maintenance appointed shall either in the first establishment, or by reason of any after change made therein, fall short of this sufficiency, the Government is in a manifest breach of the Divine Law, and as far as it fails herein, so far is it guilty of a Sacrilegious detainure of that, which is by this Divine Law due unto God for his Service. And whether this be not our case on the account of the many small Vicarages, which

by reason of the alienations of Tithes made into Lay hands at the time of the Reformation are now left in this Land, I hope will some time or other be admitted by the supreme Legislature of this Kingdom to fall under their Consideration.

V. It is more to the advantage of the Clergy to have their Maintenance settled upon this foundation, on which I have placed it, then on that Divine Right to a Tenth part, which some would challenge, and that not only because on this bottom it can always be unanswerably defended, whereas on the other it cannot; but also and especially because this way, if duely executed, they will always be secured of a sufficient Maintenance, which they must often fail of in the other. For if their Maintenance be allowed to be strictly determined to the Tenth part of the annual product of the Land, they can no where claim any more, and what then shall become of Ministers in large Towns and Cities, where there are no Tithes at all? When all that I have offered
hath

hath been duly considered, as, I am sure, it must appear to have much more of the Truth, so I hope it will be found to tend much more to the advantage of the Church, than those other more rigorous opinions, which I see no way to come in unto.

F I N I S.

Appendix.

I Having often in the preceding Discourse made mention of the Old Form, whereby Parliaments were held, before King *Henry* the Third brought in that New Form, which is now in being, I shall here add out of an old Ledger Book of the Abbey of *Bury*, a Charter of King *Harde Canute* which may give some light into the manner of Proceeding in those Old Parliaments, it is as followeth.

Regis-
trum Sa-
cristie Ab-
batie. Ed-
mundi-
burgen.
fis. Fol.
21. Et
Chartu-
larium e-
jusdem
Abbatie
Fol. 79.

E G O *Hard Cnut* Rex Anglorum
vocatus duxi notificare omnibus
tam presentibus quam futuris utriusq;
Sexus fidelibus, præcellentissimum *Cnut*
genitorem meum cum Assensu, Laude,
& Consilio suorum Archiepiscoporum,
Episcoporum, Abbatum, Monachorum,
Clericorum, & Regni sui devotorum
Pro-

Procerum, & caterorum minoris Ordinis gregariorum militum, sicut in Ordine ejusdem continetur regalis Præcepti, eo tenore constituisse Monachos in loco Sti Edmundi, ut nulli Regum, aut hominum unquam in futuro liceat ponere inibi Ordinem alium. Quo vitalibus auris exempto, meq; in ejusdem regni solio divina opitulante Clementia substituto, & Londoniæ presidente in Generalis Curie Placito, Ægelno:hus Cantuariorum Archiepiscopus cum (†) ejusdem Comitatus Præsule (*) Ælfrido nomine, & cum Unio vocato Abbate, in præsentia mea palam assistit, & utrumq; a me cum eisdem petijt, videlicet ut descriptam prius a venerabili patre meo, ut dixi, ejusdem loci confirmationem propriæ firmitatis Autoritate roborarem, & quod adhuc supererat perficere minime deferrem. Ad hoc me, quid sibi vellet, & quomodo tenderet hujus rationis prolatio, requirente, illi e contra indicaverunt, repente se id velle a nostra principaltate serenitatis, ab omnibusq; Ecclesiasticis personis, atq; Proceribus ibidem congregatis, humiliter petere, quatenus pro remedio animæ Patris, & matris, atq; meæ, & prospera Regni nostri

(†) Scil. Suffolciæ, in qua Abbatia Edmundiburgensis sita fuit, Ælfricus enim erat Episcopus Elmhamensis, sub cujus Dioceli erant Norfolcia & Suffolcia.

(*) In subscriptione vocatur Ælfricus, & videtur esse error scribæ, quod aliter scribitur in Textu Chartæ, nam alibi semper Ælfricus nominatur.

(9) Ple-
rumq;
scribitur
Emma,
et ali-
quando
Elgiva
vocatur;
& notan-
dum est
hic, fæ-
minas
publicis
Regni
Concilijs
interesse
ante tem-
pora
Norma-
nica apud
Anglos in-
usu erat,
atq; ideo
Actibus
eorum
Parlia-
menta-
rijs non
tantum
Regina-
rum, tam
Dotaria-
rum
quam
Conforti-
um, (uti
vocamus)
quineti-
am Abba-
tissarum
Nomina
subscrip-
ta inveni-

*nostri stabilitate hanc Libertatis im-
munitatem Sto Edmundo, lociq; ejus
habitatoribus dignarer concedere, ne
inibi famulantes Deo Canobita Pasto-
rum Ecclesiasticorum, aut ad se perti-
nentium personarum, ullo deinceps
tempore quaterentur, aut impediren-
tur molestia, aut oppressione. Dix-
erunt igitur, se id pluribus modis,
quamdiu vitalibus auris fruerentur,
velle fieri. Tum quia ipsi ambo enter-
fuerant paterna confirmationi. Tum
quia meritis præfati sancti pro petito
beneficio hujusmodi sperabant a Domi-
no mihi sibiq; perpetuam remuneratio-
nem provenire. Tum quia vereban-
tur, ne perversioris intentionis, &
animi, nostri successores sentirentur &
invenirentur, atq; sui. Quo pate-
facto nostro generaliter auditui, licet
non potior esset eis voluntas petendi,
quam mihi desiderium exequendi, ta-
men perquisito inde consilio communi,
universali concordia imprimis a devo-
tissima matre mea & Ymma, deinde ab
omnibus oportunum responsum accepi;
Hoc probabile, utile, dignumq; effectum
esse, & a nullo eorum abnegari posse.
Quapropter Dei omnipotentis succensus
amore, & ejusdem Martyris patroti-*

nio gaudens & honore, cum favore,
 laudeq; Ecclesiasticorum Pastorum, In th
 Mundanorumq; Principum taliter de- Margin is
 scriptum constituo roboroq; Præceptum, Written by
 ut nullus Archiepiscoporum, aut Epif- another
 coporum, aut aliqua secundi ordinis band as fol-
 eorum disciplinatus adherentium per- loweth.
 sonarum, audens quoquo modo hujus Notan-
 nostræ constitutionis violare judicium, dum,
 præsumat quicquid Consuetudinis sive quod erat
 Dominationis a modo in eodem Mo- Talen-
 nasterio & villa super Monachos, tum tri-
 Clericos, aut Laicos proclamare, usur- plex, scil
 pare, Justitiam aliquam facere, aut Minus,
 Missas celebrare, nisi Monitus fuerit Medium,
 ab ipsius loci Abbate, aut ipsi Abbati & Sum-
 pro Homicidio aut Adulterio placue- mun. Mi-
 rit aliquem suorum ad eum mittere. nus est 50
 Si quis vero posterorum (quod non pu- librarum,
 tamus futurum) hoc aggressus fuerit Medium
 temere calumniari, aut infringere De- 72 libra-
 cretum, præsentium Ecclesiasticorum rum, Sum-
 prolatæ Excommunicationi subjaceat, mun 120
 & cum Juda Traditore ignis Tartarei librarum.
 penas indesinenter luat, & sustineat, Summun
 & insuper Regio Fisco, xxx. auri 30 Talen-
 condem-

natus fuit in Curia Regis. See Coke's preface to the Ninth
 part of his Reports, and the Year Books 21. Edw. 3. fol.
 60. And Mr Hydes Speech in Parliament against the Court
 of York. Anno. 1641.

*Talenta persolvat. Et super Conser-
vatores Domini veniat benedictio,
adjutorium, & Consolatio vite, &
rerum congrua Tranquillitas, corporis
& mentis jugis protectio, salus, & sani-
tas, ut hic prosperam vitam ducant cum
fructu Deo placitorum operum, atq;
post carnis obitum perpetuum di-
vine contemplationis adepti gaudium
feliciter in sorte maneant, & consortio
sanctorum.*

*Ego Hard Cnut Rex Anglorum
aliarumq; Nationum hoc Pri-
vilegium jussi componere, &
Compositum propria manu impres-
sione Dominice Crucis Confir-
mavi. ✝*

*Ego Ymma Regina mater ipsius
Hard Cnut gaudenter assensum
prebui. ✝*

*Ego Ægelnothus Dorobernensis
Archiepiscopus signo crucis con-
signavi. ✝*

*Ego Ælfricus Eboracensis Archie-
piscopus consignavi. ✝*

*Ego Ælwinus Wintonensis Episco-
pus consignavi. ✝*

*Ego Ælfricus Elmhamensis Epif-
copus consignavi. ✝*

Ego

Ego Lyingus Wigorniensis Episcopus consignavi. †

Ego Wulfinus Lichfeldensis Episcopus consignavi. †

Ego Alwordus, Londinensis Episcopus consignavi. †

Ego Brithwoldus Wiltonensis Episcopus consignavi. †

Ego Grimketel Southsexia Episcopus consignavi. †

Ego Edmundus Lyndisfarnensis Episcopus consignavi. †

Ego Sigewardus, Abbas consignavi. †

Ego Elias Abbas consignavi. †

Ego Puri Comes consensi. †

Ego Leofricus Comes consensi. †

Ego Sywardus Comes consensi. †

Ego Beom Comes consensi. †

F I N I S,



THE
D R A U G H T
O F A
B I L L,

Prepared to have been offered to the
P A R L I A M E N T,
In the Reign of
King *William* and Queen *Mary*.
Anno Dom. 1691.

For the restraining of Plurality's of
Benifices with Cure of Souls.

W I T H
R. E A S O N S
For the said
B I L L.

NORVVICH: Printed by *Fr. Collins*, 1710.



TO THE READER.

AMong several designs, which were on foot for the bettering of the State of the Church on Arch-Bishop Tillotson's first promotion to the See of Canterbury, one was to remove the scandal of Pluralitys, which hath given so large an handle for our Adversaries to clamour against us. And the present Lord Bishop of Salisbury (whom for his true zeal for Religion, his great Learning, and large Genius even his very Enemies must honour) having communicated this unto me, and asked my Opinion upon it, I did fully convince him, that as long as there were so many small Vicarages, and other impropriated Churches, either wholly unendowed, or
elf

iv To the Reader.

else insufficiently provided for, the State of this Church, as it is at present, could not bear an absolute suppression of all Pluralities, and therefore till all impropriated Tithes should be again restored, or every Church Living some other way made a Competency, it would be necessary to proceed in a middle way as to this matter. And according hereto at his Lordships request I drew up the following Bill, which being by his Lordship offered to the Arch-Bishop, he was pleased at a meeting of the Bishops at Lambeth to approve of it, and it was there agreed to be the Draught, which should have been offered to the Parliament. This was during the Winter Sessions A^o Dom. 1691. What was the Obstruction, which hindered, that this matter could not then proceed, it is not necessary here to relate. But since it may be hoped, that there will be a time, when it may be again resumed, and this Bill may then serve the occasion, and the reasons

To the Reader.

V

sons for it (which were drawn at the same time with the Bill) may in the interim operate to show the necessity of it, they are for this reason here both together offered to the publick.

And my publishing them here after my Tract for Tithes may serve to show, that I press not for the Ministers Maintenance without having a through respect to the end for which it is ordained, i. e. the support of God's Worship, and the promoting of his honour among us. And indeed that this end may be fully answered is all, that I aim at in both these Treatises. For as I think, that an honourable and sufficient Maintenance for the Minister is absolutely necessary for the successful carrying on of the Ministerial work, so I heartily wish, and do as earnestly press, that where there is such a Maintenance, all care may be taken to make the Minister faithfully discharge all those Duties in order hereto, for which that Maintenance

was

was given. And therefore would the State fully provide for the former, let them with as much rigour as they please exact the other. The severest Laws in this case cannot give us any just cause to repine hereat. For since the assignment of the Maintenance is from the State, they have a right to exact the service, and make such Laws for it, as they shall judge will best enforce the due performance of it. And since not only the interest of the Church, but also that of the State doth mainly depend hereon, they have reason to look well hereto. For the prosperity of every State depending upon the Blessing of God, and God always giving that Blessing more or less to every Nation, according as his Honour and Worship is more or less supported or promoted among them, whatsoever Kingdom or State would have Peace and Prosperity within their Dominions, must take care to provide for the support of God's Honour, and Worship, and the faithful discharge of every Duty,

Duty in his Church for the promoting of it. For this is the only sure way to obtain God's Blessing upon them, and by that alone can peace and plenty be made to flourish in any Land. And therefore the good of the State, as well as of the Church, depending upon the faithful discharge of the Duties of Religion among them, it concerns both Church and State to have a very near and especial regard hereto. And such Laws, as shall most fully exact the labours of those herein, to whose care the Ministry of Religion is committed, will best provide for the true interest of both. And that this interest may truly be provided for, is the whole, which is designed by either of these Treatises, which are here published together.

It is obvious enough, that the design, which is here proposed in the last of them, whenever it shall be again set on foot, will meet with opposition from those, who are concerned in interest to obstruct it. And since the main and most specious objection,

Y which

which is like to be made against it, will be drawn from the injury, that will be pretended to be done hereby to the Nobility of England in reference of their Privilege of qualifying their Chaplains for Pluralities of Benefices, to obviate this prejudice these two following particulars are humbly offered to their Lordships Consideration.

1st, That the Bill doth not at all lessen their Privilege, since it allows still of Pluralities within five Miles distance, for the holding of which their Lordships favour will be in the same manner necessary as before, and even within that distance there will be Pluralities enough to take up all their Qualifications, which they are allowed by Law to grant. And therefore should this Bill pass into an Act, their Lordships Privilege as to this matter would be just, where it was before.

2^{dly}, Supposing it otherwise, yet if the reasons subjoyned do fully prove Pluralities of Cures to be as Mischievous, as they

they alledge, it cannot be supposed, that
Persons of their Lordships Piety, Ho-
nour, and Justice, will desire to retain
that as a Privilege, which tends so much
to the dishonour of God, the decay of Re-
ligion, and the prejudice of the Souls of
Men. As the Privileges of Princes,
so the Privileges of Subjects are established
only for just and good ends, and therefore
whensoever they begin to operate otherwise,
they lose the very reason of their being,
and in the justice of the thing become to
be abolish'd of course. For as a wise say-
ing, which the Civilians often quote from
Tully, *Privilegia contra Jus
Naturæ, vel utilitatem publi-
cam, non magis sunt Privilegia,
quam Tyrannis est Lex.* We
are told that the Naires of Malabar,
who are the Nobles of that Country, have
a Privilege there to kill such
of the lower sort of the Popu-
lacy among them, wherever they
meet them. Were there such a

¶ Thevenots,
Travels Part
3. Book 2. c.
1. p. 89.

which is like to be made against it, will be drawn from the injury, that will be pretended to be done hereby to the Nobility of England in reference of their Privilege of qualifying their Chaplains for Pluralities of Benefices, to obviate this prejudice these two following particulars are humbly offered to their Lordships Consideration.

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2^{dly}, Supposing it otherwise, yet if the reasons subjoyned do fully prove Pluralities of Cures to be as Mischievous, as they

they alledge, it cannot be supposed, that Persons of their Lordships Piety, Honour, and Justice, will desire to retain that as a Privilege, which tends so much to the dishonour of God, the decay of Religion, and the prejudice of the Souls of Men. As the Prerogatives of Princes, so the Privileges of Subjects are established only for just and good ends, and therefore whensoever they begin to operate otherwise, they lose the very reason of their being, and in the justice of the thing become to be abolish'd of Course. As First is a true saying, which the Civilians often quote from Tully. *Privilegia contra Jus Naturæ, vel utilitatem publicam, non magis sunt Privilegia, quam Tyrannis est Lex.* We are told that the Naires of Malabar, who are the Nobles of that Country, have a Privilege there to kill such of the lower sort of the Populacy among them, wherever they meet them. Were there such a

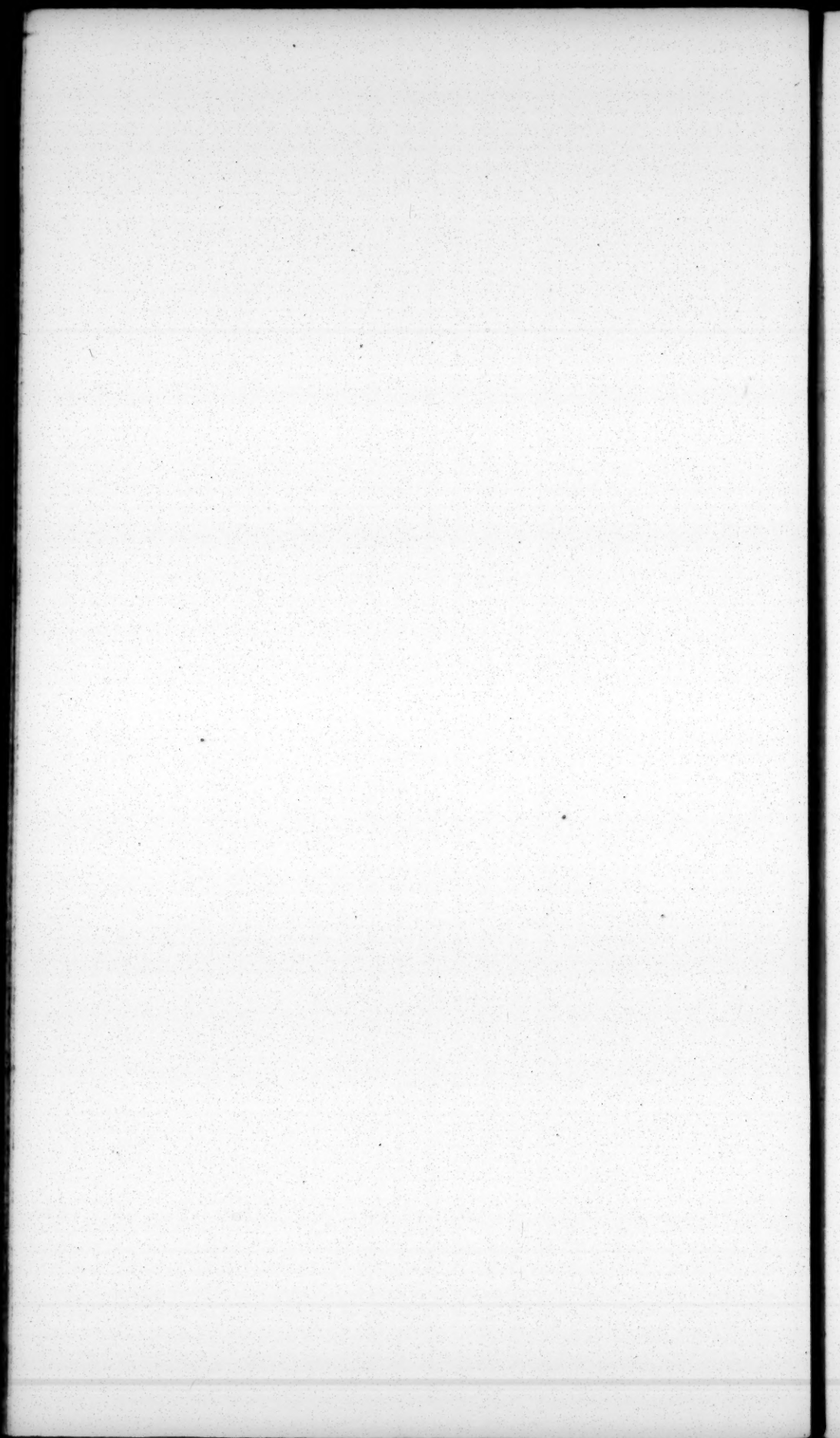
¶ Thevenot,
Travels Part
3. Book 2. c.
1. p. 89.

Privilege here, would any of their Lordships desire to keep it? And yet, if this Privilege of qualifying for Pluralities tends to the Murdering of the Souls of the People, is it not much worse? And therefore when this matter comes fully to be considered, and all the mischiefs flowing from it shall be thoroughly examined into, and lay'd open, I doubt not those most Noble and Honourable Persons will be so far from desiring to retain this, as a Privilege, that they will think no Privilege so proper for them to make use of in this case, as that, which they have in the Legislature of the Kingdom, of giving their vote for a Law to take it away, which I hope will some time or other be done, though I live not to see it.

Humphrey Prideaux.

Norwich,
October 10.
1709.

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B I L L

For Restraining

Pluralities of Benefices,

W I T H

Cure of Souls.

Prepared Anno Dom. 1709.

WHEREAS by an Act of Parliament in 21st Year of King Henry the 8th, Entituled, [An Act against Pluralities of Benefices, the taking of Farms by Spiritual Men, and for Residence.] Several Persons under the Qualifications in the said Act mentioned are allowed to purchase Licences or Dispensations to hold two Benefices with Cure of Souls, and by virtue of the said Licences or Dispensations many do now hold two Livings at that distance, as it is impossible for them to attend both with that care, which is fitting, and thereby it comes to pass

2 A Bill for Restraining, &c.

That Parsonage Houses are delapidated, Curates grow dissolute, the Ministerial Duties are neglected, and many other Mischiefs and Inconveniencies arise to the Church, whereby God is dishonoured, Religion prejudiced, and the Souls of Men neglected; for the prevention thereof be it enacted by the King and Queens most Excellent Majesty, with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same, that at no time hereafter any person under what qualification soever shall be enabled by any Licence, Dispensation, Union, or any other way whatsoever, to hold two Benefices with Cure of Souls, which shall be (measuring between the Churches of the said two Benefices by the Common high road from each to other) above the distance of five Miles the one from the other. And if any having one Benefice with Cure of Souls shall at any time hereafter be instituted or collated to a second, and contrary to the intent and purport of this Act hold the former with it, that then he shall thereby forfeit and become deprived of both, and the Patrons shall present a new unto them in the same manner, as if they were both void by actual death, any Law, Statute, or Constitution heretofore made to the contrary in any wise notwithstanding.

Pro-



A Bill for Restraining, &c. 3

Provided that if either or each of the said two Benefices shall have more Churches than one, the Principal, or Mother Church, into which the Minister takes his Induction, when he first enters on the said Benefice, shall always be the Church, from or to which the said measuring shall be made in manner as aforesaid.

R E A.



REASONS

For the Foregoing

BILL.

THE Practice of holding Pluralities of Benefices with Cure of Souls hath been complained of, as one of the greatest grievances of the Church of *England*, ever since it hath been Reformed, and many offers were made during the Reign of Queen *Elizabeth* to remove it, but as often as a Bill was brought into Parliament for this purpose, it was always encountred with another for the taking away of Impropriations, and the latter constantly strangled the former. For as long as so many Impropriations remain, and the allowances out of them for the endowing of Vicarages, and the serving of Cures, are so small, that there are now above 2000 Churches in *England*, which are not worth to the Minister taking them one with the other above 20 *l. per Ann.* it is impossible those Churches can be at all served, unless they be held by such, as have some other Benefice to maintain them. And therefore till a way be found out to endow every Parish in *England* with a sufficient competency to Maintain a Mini-

2 *Reasons for the foregoing Bill*

Minister, it is absolutely necessary in some limited manner still to permit Pluralities of Cures, and wholly to prohibit them, till this be done, will be in effect to prohibit so great a number of Parishes, which have not a sufficient Maintenance for a Minister, to have any at all to serve them. But the great mischief of Pluralities doth not proceed from holding a small Living with another in the Neighbourhood, but from holding two great ones, and those most an end at that distance, as that one of them must wholly be left to the care of a Curate, which is most an end next door to its being wholly neglected, and often much worse. And therefore to remedy this evil without encountering that objection, which all attempts in order hereto have hitherto met with, this Bill is offered, which its hoped may be sufficient to effect it, as far as the circumstances of the Church can at present admit. And that it may be thus far endeavoured these following reasons seem to press very hard upon all those, who wishing well to Religion have any power or opportunity in their hands to promote its true interest among us.

I. Because this evil, as now tolerated in this Church, by reason of the Non-residence, which necessarily attends it, is a most Sacrilegious robbing of God Almighty. For all the Endowments of Churches, whether in Tithes, or Glebes, were by their Original grant devoted *Deo & Ecclesie*. i. e. *To God and his Church*, and therefore the property of them (in the same manner, as was that of Tithes and Offerings among the *Jews*) is immediately vested in God himself, and the Ministers are only the usufructuaries to
re-



Reasons for the foregoing Bill. 3

receive the annual income, as their hire from him for the Service, they do him in his Church. And therefore to receive God's hire, and not do that work for it, for which it is intended (as all Pluralists do in the Parishes, where they are non-resident) is the taking of that, which belongs to God, without acquiring any right to it, which is notorious, and wicked Sacrilege, and it is a great Sin, as well as a great shame to any Government, where it is permitted.

II. As God is hereby robbed of the annual income of what is devoted to him, so also is he much endamaged in the original property, which usually suffers great decay by the non-residence, which Pluralities occasion. For hereby not only the Houses become delapidated, but also the people take the advantage of the absence of their Minister to encroach upon the Rights of his Benefice by laying claim to customary manners of Tithing, Prescriptions, and Compositions, where they have no Right in Law to them. And the Non-residents being forced usually to tolerate this in the people, partly that they may the better bear the neglect of Duty in them, and partly that by reason of their absence they cannot so well know, or attend their Dues, the effect commonly is that the Minister, who next succeeds, besides the great charges he must be at to make his House habitable after one, that hath been non-resident from it, must also stand a Law Suit with his Parish, or else loose a considerable part of his Maintenance. And the charge of such Suits in the Exchequer (which is the proper Court for them) being usually very great, and also drawing after them the hatred of their People (which most an end makes their
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lives uncomfortable, and their Ministry ineffectual ever after among them) many chuse rather to bear the losses, which the fault of their Predecessors hath occasioned, than take such Courses so prejudicial to themselves to repair them, whereby it is come to pass, that most of the Livings in *England*, which have gone through such hands, are within these two Ages last past considerably sunk in their value, and will continue to sink more, unless some course be taken to remove that grievance, which is so great an occasion of it. And where that Maintenance is taken away, whereby the Worship of God is to be supported, it must necessarily follow, that there that Worship of him must suffer a decay proportionable thereto. And that Land can never expect to receive from God his Blessing, where they take no care to preserve to him his Right, especially when the support of that honour, which is due to his Holy Name, doth depend so much hereon.

III. It is a great prejudice to the Honour of God in the decay of Religion, and the decrease of Piety among us. For those, who by taking two Livings necessitate themselves to be non-resident from one of them, do thereby put themselves out of a Capacity of at all discharging their duty there, as the Service of God requires. And the Consequence of this is, that Men being neither instructed in the knowledge of their Duty, nor exhorted to the practice of it, as they ought, soon grow into a supine neglect of both, and God's Field becomes over-run with Tares, through the fault of committing the Cultivation of it to such Labourers, who professedly

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ly design not to attend their Duty therein. For though the practice of Pluralists in this case be to place Curats in those Parishes, where they themselves do not reside, yet this is an Expedient scarce ever sufficient to supply the defect of their own absence, but is very often so far from it, that it becomes an accession to the grievance, because such by their insufficient performances, indiscreet carriage, and evil Example, give too frequent instances, that they rather set backward the Service of God, than any way promote it in the places, where they are appointed. For the general supply of Curats is out of those raw unexperienced Lads, that have been bred Servitors in the Universities, who having been maintained there by their Services, while Undergraduates, and on their taking their Bachelour of Arts degree (which they all covet to do as soon as they are of standing) having deprived themselves of this way of subsisting there any longer, immediately betake themselves to look out some Curacy for their support, and because of their necessities they being most an end willing to serve for small Salaries are on this account most acceptable to the generality of those, that need them. For it being the profit, which the Pluralists most look after, they seldom regard any thing else in the choice of their Curats, but who will serve them cheapest, and the wants and low fortunes of this sort of people making them most proper for their turn on this account, they are the persons, who are generally entertained by them to supply those Parishes, where they themselves do not reside. And from hence do arise many great inconveniences

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encies to the Church of God in this Land, whereby the Honour of his Holy Name, and the Salvation of the Souls of Men are exceeding prejudiced herein.

For 1st, The Learning of such, which they have acquired at the University for the short time they have been there, consisting only in their having read over some of the Ordinary Systems of Philosophy, for the most part they enter on their Cures with that gross ignorance in all matters of Divinity, as frequently to know as little thereof, as the meanest persons of those Auditories, which they undertake to instruct. For being generally of the meaner sort of Parentage, they are ill instructed at home, and when they come to the University, the usual Course of their Studies for the short time they are there not leading them to Divinity, they seldom of themselves turn their Mind that way, because so serious a matter doth not comport with that humour of vanity, folly, and light wit, which the Young Schollars most delight to addict themselves to. And it cannot be hoped, it should ever be otherwise, as long as Youngmen for the serving of those Cures are called off so early from their Colleges to be Teachers of Divine Knowledge, before they have ever learnt any thing of it themselves, or gon through those Studies, which are necessary preparatives to lead them to it. I confess, to provide a thorough Cure for this Evil the only means would be to make all Ecclesiastical Livings such Competencys, as would be sufficient encouragements to Young Students in the Universties to continue their Studies there, till they shall by their progress in Learning

ing have tully qualified themselves for them. But till this be done, if it were in the mean time provided, that, where there are such Competencies, they should be all wholly given to those only, that personally serve the Cures, it may be hoped, it would go a good way in the remedy.

2dly, As the stock of Learning, with which these Curats enter on their charge, is very low, so their circumstances are yet much worse both for themselves and the Church, in that they want all means of improving it. For usually their Salaries being but barely enough to provide them with Dyet and Cloaths, they have nothing over and above to buy themselves Books, and for want of them not being able to Study, they are thereby not only necessitated to continue in the same ignorance, with which they first entered on their Cures, but, which is much worse, are deprived thereby of the means of imploying their time, as they ought, for want of which they do too often run into ill Company, whereby they learn ill Courses, and contract such habits of idleness and looseness, as they seldom depart from all their life after. And this happens the more frequently, because in their circumstances there are many other causes also helping forward to the same mischievous effect. For the Parents of such being usually of the lower rank, who breed up their Children with less care, and after a ruder manner, they are seldom well fixed to Virtue and sober Behaviour in their first education, and through want hereof, when grown up, are the easier drawn of after any ill Courses, they shall be
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tempted to. And I have heard it frequently observed of both Universities, and at one of them I had sufficient experience of it for many Years together to know it to be true, that those, who are entered Servitors, are of the least Learning, and the worst manners of any in their time, and also the most difficult to be made Study, or to be kept in any tolerable good order all the while they are there. And yet these, who of all others are the most unfit for it, being the earliest sent into the Service of the Church on the account already mentioned, their ill Education at first, their short stay in the University to correct it, their little or no improvement in those parts of Learning, which help forward to Virtue and Religion, and above all their raw Years, with which they are sent into the world, before they have discretion to govern themselves in it, or staydness of Mind to withstand the Temptations, they are exposed to, become strong additions to that cause, I have already mentioned, of soon corrupting their manners, and driving them into all sort of miscarriages, which is a mischief, that cannot be avoided, as long as there are Pluralists in the Church, who reaping the Revenues of Benefices to themselves without doing any thing for them, usually give such small Salaries for serving the Cures, as none but persons so low and unfit, as above described, will accept of them. And if the Original of all that ignorance, looseness, and immorality, which is now complained of in too many of the Clergy, were narrowly inquired into, a great part of it will be found to proceed from this Fountain only, that so many be-
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ing allowed to hold Livings, on which they cannot themselves reside, bring Men so unfit into the Church to serve them, and place them therein in those Circumstances, which generally conduce to make them worse. And hereby it comes to pass, that those Benefices, which are intended for the support of Religion, and the propagating of Piety among us for the Honour of God, and the Salvation of Men, and are endowed with ample Revenues to maintain sufficient Labourers in order hereto, are by the evil practice of Pluralists too often made Seminaries to breed up the Clergy in that Corruption of Manners, and ignorance of Learning, which render them a dishonor to God, a scandal to the Church, and a prejudice to Religion all their Lives after. But :

3dly, Supposing there may be some Curats of those Pluralists, who have preserved their manners so untainted, and by their Study and Industry have made themselves so sufficient in Learning (and it cannot be denied, but that some such there are) as that neither of the above-mentioned mischiefs can be charged upon them, yet still the Service of God will be liable to that damage by the absence of the proper Minister, as no Curat will be able to remedy. And this objection reacheth not only those of the meaner sort, but even the best, whom Pluralists may employ in the Livings, where they themselves do not reside. For in order to make the Ministry of the most sufficient to be any way effectual with the People, there are two things mainly requisite, the 1st that they esteem and respect him, and the 2d that they have an affection for him.

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him founded hereon. And can a Minister but gain these two points with his People, he may be assured of that authority with them, as to be attended to when he Preacheth, regarded when he exhorts, feared when he rebukes, and in all things have that influence in his Ministry over them, as may thoroughly enable him to discharge all the Duties of it towards them in such a manner, as may best profit their Souls, and best bring comfort to his own thereby. But the means whereby to obtain this, not being so much the inward worth of the Minister (of which the populacy are most an end very insufficient Judges) as the outward good appearance, which he makes in his way of living among them, (which most affects the Minds of such) unless he lives decently and hospitably on the Place, and is able to do offices of Charity, and kindness among them on all occasions, that offer, he will never be able to gain this influence over them, and for want hereof, whatever his other Merits may be, the benefit of his Ministry will be in a great part, if not wholly, lost among them. And therefore Curats, who have not the Benefice, but only some mean Salary out of it, whereby barely to subsist, not being able to do this, are generally without regard or Authority, wherever they officiate. Besides to be a Curat by reason of the many miscarriages, which that sort of Men are so frequently charged with, carries a scandal and disgrace with it in the very Name. And moreover the low condition of such, and the low things, which too many of them for this reason are forced to do, and their dependance on others as underlings, and in a manner

ner as Servants to them, and the Pride and Insolence of Pluralists in usually treating them no otherwise, are such further reasons to diminish respects, and cause contempt, that both they, and their Ministry are for the most part under neglect and disregard, wherever they are, and to this the Indignation of the People to be served by a Curat (a thing which they generally resent) doth not a little help forward. And therefore although they may hear them, when they Preach, yet it is most an end with so little attention and regard to what they say, that their being present at the Assembly scarce amounts to any thing more, than the discharging of the formality of being so long at Church on the customary times, without any benefit at all received to their Souls thereby. So that really those Parishes, which are thus served, have only the *Opus Operatum*, the outward performance, which the Law requires, but as to the Spiritual effect in the good, which Men receive to their Souls from it, they are as much without all the benefits of the Ministry, as if they truly had no Minister at all. And therefore the result of the whole is, the least evil, that can be supposed, as to those Parishes, which Pluralists serve by their Curats, is, that the service of God receives no advance in them; but for the most part such being employed in them, who by their indiscreet carriage, loose life, and vicious conversations give an ill Example to many, to others a scandal and offence, and to our Enemies on all sides a great advantage against us, the Honour and Service of our God is not only hindred from advance by this practice, but is al-

so exceedingly set backward and endamaged by it. And thus it comes to pass, that those are brought into the service of the Church, and bred up in it for the sake of Pluralists, who instead of promoting Religion and Piety, which is the end of their Ministry, become none of the least cause, that we at present find so great a decay of both in this Land

IV. The Practice of holding of Pluralities of Benefices with Cure of Souls is by reason of the non-residence, which it occasions, a great injury to the People. For when there is a Parish endowed with such a Benefice, as is sufficient to Maintain a worthy and able Minister, what is more unjust, than that to gratify the avarice of a rapacious Pluralist they should be put off with an unworthy and insufficient Curat? When they Minister so plentifully in Temporal things, it is equal and fitting, that they should be administered unto proportionably in Spiritual things, and not have that Maintenance, which was designed to provide them with all Spiritual helps for the Salvation of their Souls, be thus perverted to satiate the greediness and rapacity of such, who do nothing at all for it. Had those Parishes, which Pluralists serve by their Curats, Ministers residing on them of worth proportionable to the value of their Benefices, then the People might at all times have recourse to them for the Benefit of their Ministry, whenever their Souls stand in need thereof, in laying open their Consciencies unto them, and receiving from them that comfort, advice, and direction, which their cases may require. But such young and ignorant Persons, who are usually employed for Curats, having seldom either discretion enough

to be trusted with the Secrets of Men's Consciences, or Knowledge enough to direct them therein, the People under such weak and insufficient Guides are deprived of the most useful part of the Ministry. And that there are many other particulars, wherein the Souls of Men suffer great injury and damage on this same account, either in their wholly wanting, or very insufficiently enjoying those means of Salvation, which by God's appointment ought to be administered unto them, is too well known to need any further instance. And if we will truly estimate the thing, what can be more unjust and cruel, than this evil practice, whereby to serve the Temporal interest, and satiate the unreasonable cravings of ravenous Pluralists with the Revenues of the best Livings, the Spiritual and Everlasting interest of the Souls of the People must be Sacrificed thereto?

V. It is a great injury to the Poor. For they always have had a right in the Goods of the Church, and for this reason it is that Ministers are enjoined to keep Hospitality, that thereby they may distribute to the poor from their Doors that portion, which belongs unto them. For where there is no Resident Minister no Hospitality being kept, the poor are thereby defrauded of their due. And although the Injunctions of Queen *Elizabeth* order the 40th part of the Benefices of Non-residents to be for this reason distributed annually among the Poor thereby to make them amends for what they lose by their not residing on their Livings constantly there to relieve them, yet I cannot learn that among all the Pluralists one of four hundred ever observed it so far, as to give any thing at all.

VI. It is a great prejudice to the Civil Government. For in truth the Ministers much more, than the Magistrates, conduce to the keeping of the Nation civiliz'd, and were it not for them, they would soon run into Barbarity, and all manner of disorders. For the authority of a Minister upon the place, and the awe and influence, that he hath thereby over the People, prevents abundance of disorders, and his weekly instructions teach and exhort Men to avoid them, and his interposing according to his Duty to reconcile all differences, that shall arise among his Parishioners, takes away the occasion of many feuds and contentions, which otherwise would create great Disturbances among them. But where instead of a Minister there is only a Stipendiary Curat, who seldom, or never hath either authority or discretion enough to do any thing of this, the greater load, and trouble is always cast upon the Civil Magistrate by the great encrease of Disorders, which do arise herefrom, and experience sufficiently shows, that no part of any County affords more work for Assizes, Sessions, and Justices of the Peace, than those Parishes of Pluralists, which are served by their Curats.

VII. It is a great damage to the Universities. Because while so many Livings are engrossed into the Hands of Pluralists, it hereby comes to pass, that abundance of Learned and Worthy Men, who have been bred up at *Oxford* and *Cambridge*, are wholly shut out from having any at all, and after they have by long Study and hard Labour made themselves fit in an Eminent Degree to serve the Church, for want of Employment.

ployment grow Old in their Colleges in an uncomfortable State of useflessness, and all that Learning and Knowledge, which they have acquired, becomes wholly lost both to themselves and the publick thereby.

VIII. It is a great Damage to the Church in hindering the Benefactions of well disposed Persons. For there are several, that would be ready very largely to contribute towards the buying in of those Improvements, which have deprived so many Parishes of that endowment, whereby the Service of God is to be supported in them, but that they are discouraged by this consideration, that they may fall into the hands of Pluralists, and then the case be altogether as bad, as it was before.

IX. It is a great Encouragement to Simony. Because when Patrons see Clergymen by taking more Livings, than they can serve, plainly aim at nothing else, but to receive the profits, this teacheth them to aim at nothing else, but their receiving like profits also in their presenting them. And indeed when Ministers make no Conscience to discharge their Duty in serving the Cure, a Patron may easily enough find reasons to perswade himself, he may put in for a share of the Fruits of the Benefice as well as they, and justifiably enough demand a fine of them for their first admission, who design nothing else, when in, but to receive the Rents.

X. It is a great cause of the Clergy's losing the Esteem and alienating the Affection of the Laity from them. For they seeing so many of them grasping at all the Benefices they can get out of a covetous and rapacious Mind only to

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enjoy the profits without discharging the Duty, from hence are apt to think the worse of the whole Order, as if they were all a mean and base sort of People, who care not, what they do to advance their own By-interest. And if those who enquire into the causes of the contempt and disesteem, which Ministers have generally here among us, more than in any other Christian State, would lay the main stress hereof on this point only, perchance they would not be much out. And since herein the innocent suffer with the nocent, and the most worthy are the worse looked on for the sake of those unworthy and covetous Persons, who make no Conscience thus to Sacrifice the interest of Souls to that of their Purses, I think all good Men of the Clergy are concerned to do their utmost endeavours both for their own interest, as well as that of the Church, to remove this Corruption, which is so injurious to both.

XI. It gives the Adversaries of our Church on all hands of us a great advantage against us, in furnishing them with an objection from so manifest a corruption tolerated therein, as can never be answered. And they are not a few, who have been drawn to Desert our Communion on this account only, especially in those Parishes, which Pluralists do so insufficiently supply by their Curats, wherein the Mischiefs of this Corruption are so grievously felt.

XII. It becomes an Argument in the Mouths of wicked and Atheistical Men against Christianity it self. For when they see Clergymen, whose business it is to promote this holy Religion, so frequently Sacrifice it to their gain, as all
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Pluralists do, they argue from hence, that Ministers do not themselves believe the Religion, which they teach, but that the whole of it is only a trick to get Money, and an artifice contrived, and kept up only to support that Order of Men, that is Maintained by it. And the late Earl of *Rochester* acknowledged on his Death, as we have it publickly attested, that this was one of the main causes, that made him an Atheist.

XIII. It is a practice against the Law both of Church and State, and stands upon no other foundation, but that of a Dispensation. For our Ancestors ever had that ill opinion of it, that from time to time very severe Canons have been made against it in the Church, as well as Statutes in the State. But these having been all frustrated by Papal Dispenfations, and the Papal power on the Reformation being (as much of it as was thought fitting not to be totally abolish'd) transferred partly on the King, and partly on the Arch-Bishop, the power of continuing this Corruption was included therein. But the State having already so much declared against Dispenfations, which frustrate good Laws, it is to be hoped, they will not let those remain, which continue a practice among us, that is so prejudicial to the honour of God, the Salvation of Men, and the good of the State, in which we live, as I think I have most clearly shown, that this is. And it being wholly Popish in its Original, our Reformation from Popery cannot be called perfect, as long as so pernicious a Relict of it is still permitted to continue among us.

18 *Reasons for the foregoing Bill.*

XIV. On all these accounts this practice of holding Pluralities of Benefices with Cure of Souls at such distances, as now allowed, is so great a blot to our Church and to our Government, as will constantly be a scandal to both, as long as they are thus tolerated among us.

But there being no practice so Corrupt, but may find some to defend it, so this of Pluralities is not without its advocates, and among those (which seems the more Strange) a Lord Chief Justice of *England*, Sir *Henry Hobard*, pleads very hard for them. But among all the Arguments, that are brought for them, I find only three deserving to be considered. The 1st is, That better deserving Men may be rewarded. The 2d, That smaller Livings may be served. And the 3d, That Young Men by being Curats to Pluralists may be a while bred up under the conduct and direction of experienced and able Divines, and thereby be the better fitted and prepared for the Work and Duties of the Ministry, before they undertake the charge of Parishes themselves. But how little force any of these Arguments have to put any tolerable colour upon that practice, which they are brought to defend, I shall show as followeth.

I. As to the rewarding of better deserving Men in the Church I answer.

i. That they propose a very ill Course for it, who would have it done by Pluralities of Cures. For if there be any in the Church, that deserve to be rewarded above others, it must be upon the account of the greater services, that they have

have done to it, than others of their Brethren. But what can be more preposterous and absurd, than to reward the Services, which Men have done the Church, by a way, which doth so much disserve it? For it may boldly be said, that there is no Pluralist in *England*, who hath ever done the Church so much good by his Learning and Labour, as he doth it mischief by his Non-residence (which as to one of his Parishes he must necessarily be guilty of, whoever holds two) and the more eminent and worthy he is, the more still he adds to the mischief, because the more he is such, the greater countenance he gives by his Example to so ill a practice. If any Clergyman hath done the Church that service, which may deserve reward, it must be by setting forward the Honour of God, and the Salvation of the Souls of Men. For I know no other interest the Church hath, wherein it can be served at all. And is it fitting then, that they should have this reward given them in a way, which doth so much set backward the Honour of God, and the Salvation of the Souls of Men, as it is manifest Pluralities of Cures do by reason of the Non-residence, which attends them? This is to do the Church more mischief in giving the reward, than ever it received good from the Services and Merits of the best of those, that claim it this way, and I can compare it to nothing else, than that if a Man for saving the Life of one Citizen should have a Licence to kill two. For I durst say no Pluralist in *England* ever saved half so many Souls by his Ministry, as by the neglect of it in the Parish, where he doth not reside, he becomes the occasion of betraying to everlasting ruin.

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2. Pluralities of Livings are so far from being a reward to worthy and well deserving Men, that scarce any such ever have them, and therefore this can be no reason for the continuing of them. For they, that are truly worthy and deserving do not care to meddle with them, and if there be some of them, whom the custom of the Land hath so far prevailed over, as not to think so ill of taking of them, as long as they are by the Government allowed, yet since the means, whereby they are usually gotten being Simony, fraud, base insinuations, and dishonourable Marriages, and other such like ill Arts, Men of Worth and Merit, who scorn such methods, seldom come by any of them, but they are most commonly engrossed by such of the Clergy, who are so far from deserving two Livings, that most an end they are unworthy of having any at all.

3. Supposing none, but Men worthy and deserving, had those Pluralities of Livings given unto them, yet they would be so far from finding that reward in them, which this Argument supposeth, that in reality they would get nothing at all by them. For after my best inquiry into this matter, I find, that in truth this is a thing, that brings nothing else but an imagination of profit without any real fruition, and that those, who grasp hardest at it, *Ixion* like imbrace only a shadow, which in the end leaves nothing at all to those who possess it, but the guilt of having prejudiced the honour of God, the good of his Church, and the Salvation of Souls, by so ill a practice, and the dismal reckonings, which must at last be made for it. For in order to instate a Man in a Plurality of Benefices

benefices with Cure of Souls, first a Qualification is to be procured from some Nobleman, and usually that friend or agent, who solicits and procures his Lordships favour in this particular, makes the Pluralist pay for it; next a Faculty must be procured from the Arch-Bishop, if the Livings be within 30 Miles distance one from the other; And then a Confirmation of the Faculty must be had from the Broad Seal. But if the Livings be at a greater distance, than 30 Miles from each other, a Royal Dispensation must be obtained from the King. And after his Institution into the Benefice is to be had from the Bishop, and Induction into the possession of it from the Arch-deacon. And all this with the Charges of soliciting the Business seldom comes to less than 70 or 80 Pounds, but often it amounts to much more. Then the first Fruits must be compounded for and paid to the King, next the Curat that served the Living during the vacancy must be discharged with his reward for his pains. And at first coming to the Parish something of Course must be expended as well about the House, as other matters. And all this put together often makes up two Years value of the Living. And this I reckon only for the Charges of such, as come honestly by that Living, which makes the Plurality. But if there be Simony in the matter (as it very often is, wherever there are Pluralities) it seldom costs the Pluralist less than two Years value of his Living more to the Patron for his Presentation. And the Pluralist being thus instated in his two Livings, the next thing he is to do, is to get him a Curat for that Parish, where he intends not himself to reside, and
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if he be a worthy Man (as this Argument I now answer supposeth he should) he will certainly allow him worthily, and will also do worthily in repairing the House, in relieving the Poor, and in all things else that becomes him there to do, which will deduct considerably from the annual income of the Living. And there will be also in this case many other things, which will further diminish its value to him by reason of his Non-residence from it. For first, Whereas to a Minister, that resides upon his Living, Hogs, Poultry, and other things, which are bred up in his yards, and at his Barn doors for the use of his Family, and the Small Tithes, which are weekly brought him in from his Parishioners, are of considerable benefit unto him, and most an end go half way towards the keeping of his House, and sometimes much farther, all this is wholly lost to him, that doth not reside on his Benefice. Secondly, the Non-Residence of a Minister is generally so ungrateful a thing to his Parish, that in all Taxes they lay on him by way of revenge all the load they are able, whereas they are usually kind and easie in all things of this nature to a Minister that lives on the place, and doth his duty among them. And Thirdly, For the same reason they cheat and defraud him, in the payment of his dues in all they are able. For they think, they may with a safe Conscience keep from him as much of his Right, as they can, who makes no Conscience in paying them their Right in the discharge of the Duties of his Ministry among them. For they all well enough understand, that all these Dues are settled on the Minister on no other account, but for the work
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of the Ministry to be performed among them, and therefore think they may justly detain them from those, who do not this work for them. And thus far indeed it must be acknowledged, that wherever the Minister hath a Right to the Tithes and Offerings of the People, there the People have an equal Right to the Offices of his Ministry among them, and if he cheats them of the one, no wonder, that they then cheat him of the other, as far as they are able, and Experience sufficiently shows, that in this Case they seldom fail of doing so. 4thly, The House where he doth not reside must necessarily delapidate, and fall into decay by reason of his absence from it, and for this the Pluralists Executors are often brought to a large reckoning with him, that next succeeds. And if to all this in the last place we add the denial of God's Blessing, which seldom ever attends so corrupt a Practice, I scarce think there is one in Ten of those, who so greedily grasp at Pluralities of Livings, that is at all the better for them. I have been told of many, that have been much the worse, who, when they had one Benefice, have lived comfortably and handsomely thereon, and after they have had two have come to Poverty and Beggary thereby. And I can signally instance in two I well know, who when they had only one Living a piece, and those no great ones neither, kept good Houses on them, and lived with a comfortable sufficiency, but since having got as many, as all the Tricks of Law can enable them to keep, to the Value of several Hundreds *per Annum*, have seldom now any Money for their Necessities, but are continually borrowing of every one that will lend them. For God deny-

24 *Reasons for the foregoing Bill.*

ing his Blessing to those Men in a Practice so prejudicial to his Church, the want hereof involves all their Affairs in miscarriages and Disappointments. And on these accounts they that have Pluralities of Livings must at an end purchase them at a very dear rate even in this Life, whatever they have to reckon for them hereafter in that which is to come.

4. Although I acknowledge, that it is very requisite for the good of the Church, that those, who better deserve of it, should be better rewarded, yet that Pluralities of Livings should be allowed for this reason, I see no necessity, because there are many other ways, whereby it may be done, which do much better consist both with the Interest of the Church, and also of them, who merit from it. For 1st, if a worthy Man be in a mean Living, he may be advanced to a better, where he may enjoy the Satisfaction and Comfort of doing his Duty himself, and also the Advantage of preventing all those Losses, and saving all those Defalcations, which the Non-Residence of Pluralists always occasions. And if this be not enough, in the next place there are Deanrys, Arch-Deaconrys, Prebendships, Masterships of Hospitals, and other such Preferments without Cure of Souls in the Church to the Number of Seven or eight hundred through all *England*, to which they may be promoted, and if none, but such, had them, I am apt to believe, the Church would have no need to make use of Pluralities of Cures to give Rewards to all such, as shall from time to time merit them from her.

II. As to what is urged for Pluralities on the account of smaller Cures, for this reason the Bill
allows

allows Pluralities within five Miles distance, that those Parishes may be served by a Contiguous Minister, that have not a maintenance sufficient to maintain a Minister of their own. And within this distance, in which of either the two Parishes the Minister chuseth to make his residence, he may have both very well within his Inspection, and be near enough at hand to do the Duties of his Function, where they shall be needed, and there are many single Parishes in *England*, whose Out-parts lye at above Five Miles distance the one from the other. And therefore within this distance there not being all those reasons against Pluralities, as when the Parishes are further remote from each other, they may for the sake of what is alledged for them in this Argument be very well tolerated, till all those small Livings shall be endowed with a sufficiency to maintain a Minister upon the Place. But if the small Living, which is to make the Plurality, be at a further distance, then all the Arguments, which are above alledged occur against it. For in this case it will be out of the reach of the Ministers Inspection, and therefore must be served by a Curat on the place, and then all that is said on this Head for the Plurality looseth its Force. For that Living, which can maintain a Curat, may better maintain a Minister, since no one in this case will take a Living to keep a Curat on it, who doth not get something to himself thereby. And therefore if the Living be small, the more is the Pity, that a Pluralist should be allowed to take any thing from it.

III. As to the Third Argument for Pluralities of Cures, that young Men may be better bred up for the Ministry under the Conduct and Directi-

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on of able and experienced Divines, I confess, it speaketh the fairest for them of all others, that have been urged for the support of so ill a Cause. For it must be acknowledged, that to have young Men thus brought up for the Ministry would be of exceeding Benefit to the Church, and might conduce to the preventing of abundance of Indiscretions, and worse miscarriages, which such raw Youths, as usually come from the Universities to be Curats, through want of a Guide at first better to direct them are apt to run into, and also might help to put them in such a way both of Study and sober Conversation, as might make them much fitter for the Service of the Church, than the generality of them do now among us usually prove to be. And I do so very much approve of this Method, and have that Opinion of its usefulness, and the Success which it would have in fitting young Men for the Ministry, that I could wish every Minister, who hath a Benefice of 200 *l. per Ann.* and above, were obliged by Law to keep a Deacon in his House for this purpose. For I think it would be a much better way of bringing up young Divines for the Service of the Church, than any other now in use. And did Pluralists really do thus much as to the Curates, which they are forced to keep, then some good might be said to come from those Pluralities, which they are allowed to hold, to make amends in some degree for the greater mischiefs, which we daily see they occasion. But the truth is, this Argument, which proposeth thus much for them, promiseth that in their behalf, which in reality they never effect. For it goes upon two false Suppositions. The first is, that Pluralists are always such worthy and able Ministers,

as

as are fit to breed up others under them for the Service of the Church, by directing aright both their Conversation by their Example, and their Studies by their Instructions, whereas most an end it is quite the contrary, too many of those Pluralists being such, from whom young Men, if committed to their Conduct, would learn more hurt than good. And 2dly, it supposeth, that all Pluralists Curats do live in their Families with them. For how otherwise can they receive that Benefit from them, which this Argument proposeth? But this can never happen in those Pluralities, against which this Bill is offered, and therefore to them it must wholly loose its force, and cannot in the least plead for them. For when the Livings, which the Pluralist holds, are above Five Miles the one from the other, the Curat must live upon the place, where his Cure is, and this being by the Arch-Bishop's Dispensation as far as 30 Miles distance, and by the King's as far as from *Barwick* to the *Lands End*, it most an end happens, that the Curat is so far from being better'd either by the Example or the Instruction of the Pluralist, under whom he serves, as that he seldom perchance sees his Face above once or twice in a Year, and that most an end on no other account, but to reckon with him for his Salary. And therefore this Argument, as to the Pluralities, which this Bill is against, as it doth not at all reach them, so it hath not any Strength in the least to speak for them. But however I cannot deny, but that where the Benefices, which the Pluralist holds, are within the distance of Five Miles the one from the other, it becomes an accession to the reason, which I have already laid down in the beginning of this Discourse, why this sort of Pluralities should be still tolerated among

mong us. Not but that I could heartily wish, that the Circumstances of the Church were such, as to admit the taking away of these also. But since they are not, and for the sake of the many small Livings in this Realm, which cannot otherwise be served, it is necessary they should be still retained within the distance in the Bill limited, this Argument proposeth a way, whereby good may be brought out of the Evil, which we cannot remedy, and the evil itself be in a great measure alleviated, and rendered the more tolerable thereby. For when the Livings held in Plurality are within the distance of Five Miles the one from the other, the Curate (if the Living be such, as will bear the keeping of one) may then live in the House of the Minister he is under, without any great Inconvenience to the Parish, which he is to serve. Because at this nearness he may with conveniency enough be ready on all occasions to repair thereto for the discharge of his Duty, and also at home receive all the Benefits and Advantages from the Minister, he liveth with, which this Argument proposeth. And if the Minister and his Curate do in this Case (as their own Ease and Convenience will direct them to do) part the burden of each Parish equally between them, and serve them alternately by changing each Sunday, a great part of the mischief, which follows from Pluralities, may be prevented thereby. For then neither of the Parishes will be wholly under the Conduct and Instruction of a raw Curate, but each of them will every other Week have their Minister himself to officiate among them, and altho' he resides not at one of the Parishes, yet he may scarce be reckoned a non-resident, while he lives so near at the other. For within the distance of Five Miles the Poor may have easy access to
him

him for his Hospitality, and all other his People with conveniency enough repair to him on all occasions, either for the directing of their Consciences, or the administring of Comfort unto them, as their Cases shall require, or else at least every Fortnight they may find him at their own Church, and there receive the private Benefit of his Ministry, as well as the Publick, in all things, that their Souls shall stand in need of from him. Or if the matter be such, as shall need a speedier communicating of his Ghostly assistance and Advice unto them, and they cannot conveniently go to him, he may then on their Call go unto them, as his Duty requires, that he should, and this may be easily done within such a distance. And besides as the Curats living with the Minister, he is under, gives him the Advantage of being profited both by his Example, and his Instruction, so also will it have this further convenience in this case, that he need not make above one Sermon in a Fortnight, and consequently he will have the more time first to study, and well digest the matters, of which he treats, before he delivers them from the Pulpit, a thing very requisite for young beginners, who being furnished but with a small Stock of Knowledge in Divinity must Study hard for the matter of their Sermons as well as the Composure of them, so to discharge themselves in the performance, as they ought. And if this Method, as here laid down, be faithfully practiced by the Pluralist and his Curat in serving of the Livings within the distance mentioned, altho' all the mischiefs, which attend Pluralities of Cures may not wholly be taken away, yet they will be very considerably alleviated, and made more tolerable thereby. But if the Minister doth also truly take care to breed up his
Curat.

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Curat in Learning, Experience as to his Duty, and Sobriety of Conversation, so as to make him the fitter for the Ministry, and be a Man thoroughly qualified so to do, altho' some evil may still remain to the Church from his Plurality (because two Livings can in no Method be by one Minister so well served, as if there were a Minister upon each) yet the good, which he will do thereto by thus constantly taking Pains to fit, and capacitate others for the Service of it, will go a great way to make amends for it. So that indeed this Argument were the thing really practised, which it proposeth by it, makes much for those Pluralities, which are in this Bill tolerated, but nothing at all for them, which it proposeth wholly to abolish.

And thus far having offered my Arguments for the Bill, and answered all the Objections worth taking notice of, which use to be urged on the other side, I shall only add this one thing further in the behalf of it, that it proposeth the gentlest, and the easiest remedy, that possibly can be used against so great an evil. For it disturbs no Man in possession, or offers the least hardship to such, as already have a legal right in their Pluralities, but leaving them to an intire enjoyment of them, as long as they shall live, doth only provide to remedy this practice for the future, which being so exceeding mischievous to the Church of God, as I have shown it to be, I know not how any Man can answer it either to God or his own Conscience, that shall oppose so good a design, as this of taking it away.

Dec. 15. 1691.

F I N I S.



